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Seventy-third General Assembly  
STATE OF COLORADO

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LLS NO. 22-0978.01 Kristen Forrestal x4217

HOUSE BILL

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**BILL TOPIC:** "Collective Bargaining Counties & Higher Education"

**DEADLINES:** File by: 3/28/2022

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A BILL FOR AN ACT

101 CONCERNING THE EXPANSION OF PUBLIC EMPLOYEES RIGHTS TO  
102 COLLECTIVELY BARGAINING.

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**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 grants the public employees of a county or a state institution of higher education (public employers) the right to:

- Organize, form, join, or assist an employee organization or refrain from doing so;
- Engage in collective bargaining;

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

- Engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection;
- Communicate with other public employees and with employee organization representatives and receive and distribute literature regarding employee organization issues; and
- Have an exclusive representative at formal discussions concerning a grievance, a personnel policy or practice, or any other condition of employment.

The bill:

- Grants the exclusive representative of public employees the right to access public employees at work, through electronic communication, and other means, including employee orientations;
- Requires public employers to honor employee authorizations for payroll deductions for the exclusive representative;
- Clarifies that the bill does not impair specific rights of public employers unless otherwise agreed to in a collective bargaining agreement;
- Requires the director of the division of labor standards and statistics in the department of labor and employment (director) to enforce, interpret, apply, and administer the provisions of the bill, and in doing so, hold hearings, and impose administrative remedies;
- Authorizes the director or any party of interest to request that a district court to enforce orders made pursuant to this bill;
- Sets forth the process by which an employee organization is certified and decertified as the exclusive representatives of public employees;
- Sets forth the process by which an appropriate bargaining unit is determined; and
- Requires the public employer and the exclusive representative to collectively bargain in good faith.

The bill states that the collective bargaining agreement is an agreement negotiated between an exclusive representative and a public employer that;

- Must be for a term of at least 12 months and not more than 60 months;
- Must include a provision that prohibits disciplinary action against a public employee unless there is just cause; and
- Must provide a grievance procedure that culminates in final and binding arbitration.

The bill prohibits a collective bargaining agreement from:

- Delaying the prompt interviewing or public employees under investigation for incidents involving violence;
- Permitting an employee from using paid time for a suspension from employment;
- Permitting the expungement of disciplinary records under certain circumstances; and
- Imposing limits on the period of time for which an employee may be disciplined for incidents of violence.

The bill describes the dispute resolution process that the exclusive representative and a public employer must follow if an impasse arises during the negotiation of a collective bargaining process.

The bill sets forth the actions taken during the collective bargaining process by a public employer or an exclusive representative that are unfair labor practices.

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

2           **SECTION 1. Legislative declaration.** (1) The general assembly  
3 hereby finds and declares that:

4           (a) It is the purpose of this act to promote harmonious, peaceful  
5 and cooperative relationships between public employers and public  
6 employees in the state of Colorado;

7           (b) The creation of a statutory framework that recognizes the rights  
8 of public employees to join organizations of their own choosing, to be  
9 represented by those organizations, and to collectively bargain with their  
10 employer over wages, hours, and other terms and conditions will improve  
11 the delivery of public services in the state of Colorado;

12           (c) Collective bargaining for public employees is a matter of  
13 statewide concern that affects the public safety and general welfare;

14           (d) In higher education, law and long-established practice  
15 recognize the vital role of shared governance among an institution's  
16 stakeholders as a guarantee of the freedom to teach and engage in  
17 research, creative activity, and scholarship upon which excellence in

1 higher education depends.

2 (e) As such, the collegial system of governance should be  
3 maintained independent of collective bargaining and, in fact, is  
4 strengthened with collective bargaining at a higher education institution.

5 **SECTION 2.** In Colorado Revised Statutes, **add** Article 3.3 to  
6 title 8 as follows:

7 **8-3.3-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 3.3 IS  
8 THE "COLLECTIVE BARGAINING BY COUNTY, PUBLIC UNIVERSITY, AND  
9 COLLEGE EMPLOYEES".

10 **8-3.3-102. Definitions.** AS USED IN THIS ARTICLE 3.3, UNLESS THE  
11 CONTEXT OTHERWISE REQUIRES:

12 (1) "BARGAINING UNIT" MEANS A GROUP OF PUBLIC EMPLOYEES IN  
13 A UNIT DEEMED APPROPRIATE FOR THE PURPOSE OF COLLECTIVE  
14 BARGAINING IN ACCORDANCE WITH SECTION 8-3.3-109.

15 (2) "COLLECTIVE BARGAINING" OR "COLLECTIVELY BARGAIN"  
16 MEANS THE PERFORMANCE OF THE MUTUAL OBLIGATION OF A PUBLIC  
17 EMPLOYER, THROUGH ITS DESIGNATED REPRESENTATIVES, AND AN  
18 EXCLUSIVE REPRESENTATIVE TO:

19 (a) MEET AT REASONABLE TIMES AND PLACES AND NEGOTIATE IN  
20 GOOD FAITH WITH RESPECT TO WAGES, HOURS AND OTHER TERMS AND  
21 CONDITIONS OF EMPLOYMENT;

22 (b) RESOLVE QUESTIONS ARISING UNDER A COLLECTIVE  
23 BARGAINING AGREEMENT THROUGH A NEGOTIATED GRIEVANCE  
24 PROCEDURE CULMINATING IN FINAL AND BINDING ARBITRATION; AND

25 (c) EXECUTE A WRITTEN CONTRACT INCORPORATING ANY  
26 AGREEMENTS REACHED.

27 (3) "COLLECTIVE BARGAINING AGREEMENT" MEANS AN

1 AGREEMENT NEGOTIATED BETWEEN AN EXCLUSIVE REPRESENTATIVE AND  
2 A PUBLIC EMPLOYER INCLUDING AN AGREEMENT REACHED THROUGH AN  
3 IMPASSE RESOLUTION PROCESS.

4 (4) "CONFIDENTIAL EMPLOYEE" MEANS A PERSON WHO IS  
5 REQUIRED TO DEVELOP OR PRESENT MANAGEMENT POSITIONS WITH  
6 RESPECT TO EMPLOYER-EMPLOYEE RELATIONS, WHOSE DUTIES NORMALLY  
7 REQUIRE ACCESS TO CONFIDENTIAL INFORMATION CONTRIBUTING  
8 SIGNIFICANTLY TO THE DEVELOPMENT OF SUCH MANAGEMENT POSITIONS,  
9 OR WHO IS EMPLOYED AS AN ATTORNEY BY THE PUBLIC EMPLOYER AND  
10 WHOSE DUTIES ARE TO PROVIDE DIRECT LEGAL COUNSEL REGARDING THE  
11 APPLICATION, INTERPRETATION, OR ENFORCEMENT OF THIS ARTICLE 3.3.

12 (5) "DEADLY PHYSICAL FORCE" MEANS FORCE, THE INTENDED,  
13 NATURAL, AND PROBABLE CONSEQUENCE OF WHICH IS TO PRODUCE DEATH,  
14 AND WHICH DOES, IN FACT, PRODUCE DEATH.

15 (6) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND  
16 EMPLOYMENT.

17 (7) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.

18 (8) "DIVISION" MEANS THE DIVISION OF LABOR STANDARDS AND  
19 STATISTICS IN THE DEPARTMENT.

20 (9) "EMPLOYEE ORGANIZATION" MEANS A NONPROFIT  
21 ORGANIZATION THAT ENGAGES WITH A PUBLIC EMPLOYER CONCERNING  
22 WAGES, HOURS, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT AND  
23 THAT REPRESENTS OR SEEKS TO REPRESENT PUBLIC EMPLOYEES IN A  
24 BARGAINING UNIT.

25 (10) "EXCLUSIVE REPRESENTATIVE" MEANS THE EMPLOYEE  
26 ORGANIZATION CERTIFIED OR RECOGNIZED AS THE REPRESENTATIVE OF  
27 EMPLOYEES IN A BARGAINING UNIT PURSUANT TO THE TERMS OF THIS

1 ARTICLE 3.3.

2 (11) "EXECUTIVE EMPLOYEE" MEANS AN EMPLOYEE:

3 (a) WHOSE PRIMARY DUTY IS MANAGEMENT OF THE ENTITY IN  
4 WHICH THE EMPLOYEE IS EMPLOYED OR OF A CUSTOMARILY RECOGNIZED  
5 DEPARTMENT OR SUBDIVISION THEREOF;

6 (b) WHO CUSTOMARILY AND REGULARLY DIRECTS THE WORK OF  
7 TWO OR MORE OTHER EMPLOYEES; AND

8 (c) WHO HAS THE AUTHORITY TO HIRE OR FIRE OTHER EMPLOYEES  
9 OR WHOSE SUGGESTIONS AND RECOMMENDATIONS AS TO THE HIRING,  
10 FIRING, ADVANCEMENT, PROMOTION, OR ANY OTHER CHANGE OF STATUS  
11 OF OTHER EMPLOYEES ARE GIVEN PARTICULAR WEIGHT.

12 (d) FACULTY OR A DEPARTMENT CHAIR OR HEAD OF A SIMILAR  
13 ACADEMIC UNIT OR PROGRAM IN AN INSTITUTION OF HIGHER EDUCATION  
14 OR LOCAL DISTRICT COLLEGE WHO PERFORMS THE FOREGOING DUTIES  
15 SHALL NOT BE DEEMED AN EXECUTIVE EMPLOYEE SOLELY BECAUSE OF  
16 THOSE DUTIES.

17 (12) "FACT FINDING" MEANS THE PROCESS WHEREBY THE ISSUES  
18 NOT RESOLVED IN COLLECTIVE BARGAINING NEGOTIATIONS BETWEEN THE  
19 PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE ARE PRESENTED  
20 TO A FACT FINDER FOR RESOLUTION PURSUANT TO SECTION 8-3.3-114.

21 (13) "FINAL OFFER" MEANS THE WRITTEN OFFER MADE:

22 (a) LATEST IN TIME BY AN EXCLUSIVE REPRESENTATIVE TO A  
23 PUBLIC EMPLOYER OR BY A PUBLIC EMPLOYER TO AN EXCLUSIVE  
24 REPRESENTATIVE; AND

25 (b) AT LEAST SEVEN CALENDAR DAYS BEFORE THE BEGINNING OF  
26 AN IMPASSE RESOLUTION HEARING AS DESCRIBED IN SECTION 8-3.3-114.

27 (14) "GOVERNING BODY" MEANS THE ELECTED OR APPOINTED

1 REPRESENTATIVE BODY OF THE PUBLIC EMPLOYER.

2 (15) "LOCAL GOVERNMENT" MEANS A COUNTY OR OTHER  
3 POLITICAL SUBDIVISION OF A COUNTY.

4 (16) "MANAGERIAL EMPLOYEE" MEANS ANY EMPLOYEE HAVING  
5 SIGNIFICANT RESPONSIBILITIES FOR FORMULATING AGENCY OR  
6 DEPARTMENTAL POLICIES AND PROGRAMS OR ADMINISTERING AN AGENCY  
7 OR DEPARTMENT OF A PUBLIC EMPLOYER. NO EMPLOYEE OR GROUP OF  
8 EMPLOYEES SHALL BE DEEMED TO BE MANAGERIAL EMPLOYEES SOLELY  
9 BECAUSE THE EMPLOYEE OR GROUP OF EMPLOYEES PARTICIPATES IN  
10 DECISIONS WITH RESPECT TO COURSES, CURRICULUM, PERSONNEL, AND  
11 OTHER MATTERS OF EDUCATIONAL POLICY. FACULTY OR A DEPARTMENT  
12 CHAIR OR HEAD OF A SIMILAR ACADEMIC UNIT OR PROGRAM IN AN  
13 INSTITUTION OF HIGHER EDUCATION OR LOCAL DISTRICT COLLEGE WHO  
14 PERFORMS THE FOREGOING DUTIES SHALL NOT BE DEEMED A MANAGERIAL  
15 EMPLOYEE SOLELY BECAUSE OF THOSE DUTIES.

16 (17) "NEW EMPLOYEE ORIENTATION" MEANS THE ONBOARDING  
17 PROCESS OF A NEWLY HIRED PUBLIC EMPLOYEE, WHETHER IN PERSON,  
18 ONLINE, OR THROUGH OTHER MEANS OR MEDIUMS, IN WHICH PUBLIC  
19 EMPLOYEES ARE ADVISED OF THEIR EMPLOYMENT STATUS, RIGHTS,  
20 BENEFITS, DUTIES AND RESPONSIBILITIES, OR ANY OTHER  
21 EMPLOYMENT-RELATED MATTERS.

22 (18) "PHYSICAL FORCE" MEANS THE APPLICATION OF PHYSICAL  
23 TECHNIQUES OR TACTICS, CHEMICAL AGENTS, OR WEAPONS TO ANOTHER  
24 PERSON.

25 (19) "PUBLIC EMPLOYEE" MEANS A PERSON EMPLOYED BY A PUBLIC  
26 EMPLOYER, INCLUDING A PERSON WHOSE EMPLOYMENT WITH THE PUBLIC  
27 EMPLOYER HAS CEASED DUE TO AN UNFAIR LABOR PRACTICE OR A

1 DISCHARGE FOR OTHER THAN JUST CAUSE, UNLESS THE INDIVIDUAL FALLS  
2 INTO ANY OF THE FOLLOWING CATEGORIES:

3 (a) IN THE CASE OF AN EMPLOYEE OF A STATE INSTITUTION OF  
4 HIGHER EDUCATION, AN EMPLOYEE WHO IS EMPLOYED IN THE PERSONNEL  
5 SYSTEM OF THE STATE ESTABLISHED IN SECTION 13 OF ARTICLE XII OF THE  
6 STATE CONSTITUTION;

7 (b) CONFIDENTIAL EMPLOYEES;

8 (c) MANAGERIAL EMPLOYEES;

9 (d) EXECUTIVE EMPLOYEES;

10 (e) TEMPORARY, INTERMITTENT AND SEASONAL EMPLOYEES  
11 WORKING LESS THAN NINETY DAYS IN A THREE HUNDRED SIXTY-FIVE DAY  
12 PERIOD.

13 (20) (a) "PUBLIC EMPLOYER" MEANS:

14 (I) A LOCAL GOVERNMENT; OR

15 (II) A STATE INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN  
16 SECTION 23-18-102 (10)(A), AND A LOCAL DISTRICT COLLEGE OPERATING  
17 PURSUANT TO ARTICLE 71 OF TITLE 23.

18 (B) "PUBLIC EMPLOYER" DOES NOT INCLUDE:

19 (I) THE STATE, OR ANY POLITICAL SUBDIVISION THEREOF, THAT  
20 ACQUIRES OR OPERATES A MASS TRANSPORTATION SYSTEM, OR ANY  
21 CARRIER BY RAILROAD, EXPRESS COMPANY, OR SLEEPING CAR COMPANY  
22 SUBJECT TO THE FEDERAL "RAILWAY LABOR ACT", 45 U.S.S. SEC. 151 ET  
23 SEQ., AS AMENDED;

24 (II) A MUNICIPALITY, OR CITY AND COUNTY;

25 (III) A SCHOOL DISTRICT, A DISTRICT CHARTER SCHOOL  
26 AUTHORIZED PURSUANT TO PART 1 OF ARTICLE 30.5 OF TITLE 22, AND AN  
27 INSTITUTE CHARTER SCHOOL AUTHORIZED PURSUANT TO PART 5 OF



1 ARTICLE 30.5 OF TITLE 22; OR

2 (IV) ANY DISTRICT, BUSINESS IMPROVEMENT DISTRICT, SPECIAL  
3 DISTRICT CREATED PURSUANT TO TITLE 32, AUTHORITY, OR OTHER  
4 POLITICAL SUBDIVISION OF THE STATE, MUNICIPALITY, OR CITY AND  
5 COUNTY.

6 (21) "SERIOUS BODILY INJURY" MEANS BODILY INJURY WHICH,  
7 EITHER AT THE TIME OF THE ACTUAL INJURY OR AT A LATER TIME,  
8 INVOLVES A SUBSTANTIAL RISK OF DEATH, A SUBSTANTIAL RISK OF  
9 SERIOUS PERMANENT DISFIGUREMENT, A SUBSTANTIAL RISK OF  
10 PROTRACTED LOSS OR IMPAIRMENT OF THE FUNCTION OF ANY PART OR  
11 ORGAN OF THE BODY, OR BREAKS, FRACTURES, OR BURNS OF THE SECOND  
12 OR THIRD DEGREE.

13 (22) "SHOWING OF INTEREST" MEANS WRITTEN OR ELECTRONIC  
14 DOCUMENTATION THAT PROVIDES EVIDENCE OF EMPLOYEE MEMBERSHIP  
15 OR SUPPORT FOR AN EMPLOYEE ORGANIZATION FOR PURPOSES OF  
16 EXCLUSIVE REPRESENTATION. "SHOWING OF INTEREST" INCLUDES ANY  
17 ELECTRONIC SIGNATURE ACCEPTABLE UNDER THE "UNIFORM ELECTRONIC  
18 TRANSACTIONS ACT", ARTICLE 71.3 OF TITLE 24.

19 **8-3.3-103. Public employees - rights - obligations.** (1) PUBLIC  
20 EMPLOYEES HAVE THE RIGHT TO:

- 21 (a) SELF-ORGANIZATION;
- 22 (b) FORM, JOIN, OR ASSIST AN EMPLOYEE ORGANIZATION;
- 23 (c) ENGAGE IN THE COLLECTIVE BARGAINING PROCESS AND THE  
24 FORMATION OF A COLLECTIVE BARGAINING AGREEMENT THROUGH  
25 REPRESENTATIVES OF THEIR OWN CHOOSING;
- 26 (d) ENGAGE IN OTHER CONCERTED ACTIVITIES FOR THE PURPOSE OF  
27 COLLECTIVE BARGAINING OR OTHER MUTUAL AID OR PROTECTION; AND

1 SHALL ALSO HAVE THE RIGHT TO REFRAIN FROM ANY OR ALL SUCH  
2 ACTIVITIES, WITHOUT INTERFERENCE, RESTRAINT, OR COERCION BY A  
3 PUBLIC EMPLOYER OR EMPLOYEE ORGANIZATION AND

4 (e) REFRAIN FROM ANY OR ALL CONCERTED ACTIVITIES WITHOUT  
5 INTERFERENCE, CONSTRAINT, OR COERCION BY A PUBLIC EMPLOYER OR  
6 EMPLOYEE ORGANIZATION,

7 (2) PUBLIC EMPLOYEES HAVE THE RIGHT TO COMMUNICATE WITH  
8 ONE ANOTHER AND WITH EMPLOYEE ORGANIZATION REPRESENTATIVES  
9 CONCERNING ORGANIZATION, REPRESENTATION, WORKPLACE ISSUES,  
10 COLLECTIVE BARGAINING, AND THE BUSINESS AND PROGRAMS OF AN  
11 EMPLOYEE ORGANIZATION AT THE EMPLOYEE ORGANIZATION'S WORKSITE  
12 AND BY MEANS OF E-MAIL SYSTEMS, TEXTS, OTHER ELECTRONIC  
13 COMMUNICATIONS, TELEPHONE, PAPER DOCUMENTS, AND OTHER MEANS  
14 OF COMMUNICATION SUBJECT TO REASONABLE RESTRICTIONS.

15 (3) PUBLIC EMPLOYEES HAVE THE RIGHT TO HAVE THEIR EXCLUSIVE  
16 REPRESENTATIVE BE PRESENT AT:

17 (a) ANY FORMAL DISCUSSION BETWEEN ONE OR MORE  
18 REPRESENTATIVES OF THE PUBLIC EMPLOYER AND ONE OR MORE PUBLIC  
19 EMPLOYEES IN THE BARGAINING UNIT OR THEIR REPRESENTATIVES  
20 CONCERNING A GRIEVANCE, A PERSONNEL POLICY OR PRACTICE, OR ANY  
21 OTHER GENERAL CONDITION OF EMPLOYMENT; OR

22 (b) ANY EXAMINATION OF A PUBLIC EMPLOYEE IN THE BARGAINING  
23 UNIT BY A REPRESENTATIVE OF THE PUBLIC EMPLOYER IN CONNECTION  
24 WITH AN INVESTIGATION IF:

25 (I) THE PUBLIC EMPLOYEE REASONABLY BELIEVES THAT THE  
26 EXAMINATION MAY RESULT IN DISCIPLINARY ACTION AGAINST THE PUBLIC  
27 EMPLOYEE; AND

1 (II) THE PUBLIC EMPLOYEE REQUESTS REPRESENTATION.

2 (4) A PUBLIC EMPLOYER SHALL ANNUALLY INFORM THEIR PUBLIC  
3 EMPLOYEES IN A BARGAINING UNIT WHO ARE REPRESENTED BY AN  
4 EXCLUSIVE REPRESENTATIVE OF THEIR RIGHTS UNDER SUBSECTION (3)(b)  
5 OF THIS SECTION.

6 **8-3.3-104. Exclusive representatives - rights.** (1) THE PUBLIC  
7 EMPLOYER SHALL GIVE THE EXCLUSIVE REPRESENTATIVE REASONABLE  
8 ACCESS TO PUBLIC EMPLOYEES AT WORK, THROUGH ELECTRONIC  
9 COMMUNICATION AND OTHER MEANS. REASONABLE ACCESS MUST BE  
10 DETERMINED THROUGH COLLECTIVE BARGAINING.

11 (2) AT THE END OF EACH CALENDAR QUARTER, A PUBLIC EMPLOYER  
12 SHALL PROVIDE TO THE EXCLUSIVE REPRESENTATIVE, THE FOLLOWING  
13 INFORMATION FOR EACH PUBLIC EMPLOYEE IN THE BARGAINING UNIT:

14 (a) THE NAME, EMPLOYEE IDENTIFICATION NUMBER, DEPARTMENT,  
15 JOB CLASSIFICATION, JOB TITLE, WORK TELEPHONE NUMBER, WORK EMAIL,  
16 WORK ADDRESS, WORK LOCATION, SALARY, AND DATE OF HIRE OF EACH  
17 PUBLIC EMPLOYEE AS CONTAINED IN THE PUBLIC EMPLOYER'S RECORD;  
18 AND

19 (b) THE HOME ADDRESS, HOME AND PERSONAL CELLULAR  
20 TELEPHONE NUMBERS, AND PERSONAL EMAIL ADDRESS OF EACH PUBLIC  
21 EMPLOYEE, UNLESS DIRECTED BY THE PUBLIC EMPLOYEE NOT TO PROVIDE  
22 SOME OR ALL OF THE INFORMATION.

23 (3) (a) (I) WITHIN THIRTY DAYS AFTER A PUBLIC EMPLOYEE IS  
24 HIRED, THE PUBLIC EMPLOYER SHALL PROVIDE THE EXCLUSIVE  
25 REPRESENTATIVE WITH AN OPPORTUNITY TO MEET WITH THAT PUBLIC  
26 EMPLOYEE DURING WORK TIME AS DETERMINED BY SUBSECTION (3)(d) OF  
27 THIS SECTION.

1           (II) THE PUBLIC EMPLOYER SHALL PROVIDE THE EXCLUSIVE  
2 REPRESENTATIVE NOTICE OF AT LEAST TEN DAYS IN ADVANCE OF A NEW  
3 EMPLOYEE ORIENTATION; EXCEPT THAT A SHORTER NOTICE MAY BE  
4 PROVIDED WHEN THERE IS AN URGENT NEED CRITICAL TO THE PUBLIC  
5 EMPLOYER'S OPERATIONS THAT WAS NOT REASONABLY FORESEEABLE.

6           (III) THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE  
7 SHALL DETERMINE THE STRUCTURE, TIME, AND MANNER OF THE EMPLOYEE  
8 ORGANIZATION'S ACCESS THROUGH COLLECTIVE BARGAINING. THE  
9 COLLECTIVE BARGAINING AGREEMENT MUST PROVIDE THE EXCLUSIVE  
10 REPRESENTATIVE ACCESS TO ITS EMPLOYEE ORIENTATION AND TO ITS  
11 ORIENTATION MATERIALS AND INFORMATION.

12           (b) THE EMPLOYER SHALL PAY ITS PUBLIC EMPLOYEES FOR THE  
13 TIME EMPLOYEES MEET WITH THE EXCLUSIVE REPRESENTATIVE PURSUANT  
14 TO THIS SUBSECTION (4). THE EMPLOYER SHALL PAY EACH PUBLIC  
15 EMPLOYEE THE SAME RATE OF PAY THAT THE EMPLOYEES ARE PAID  
16 DURING NORMAL WORK HOURS.

17           (4) THE PUBLIC EMPLOYER SHALL MAKE PAYROLL DEDUCTIONS FOR  
18 MEMBERSHIP DUES AND OTHER PAYMENTS THAT PUBLIC EMPLOYEES  
19 AUTHORIZE TO BE MADE TO THE EXCLUSIVE REPRESENTATIVE AND  
20 RELATED ENTITIES. THE EXCLUSIVE REPRESENTATIVE AND RELATED  
21 ENTITIES SHALL BE THE ONLY EMPLOYEE ORGANIZATION FOR WHICH THE  
22 PUBLIC EMPLOYER SHALL MAKE PAYROLL DEDUCTIONS FROM PUBLIC  
23 EMPLOYEES WHO ARE IN A BARGAINING UNIT REPRESENTED BY AN  
24 EXCLUSIVE REPRESENTATIVE.

25           (5) THE PUBLIC EMPLOYER SHALL HONOR THE TERMS OF PUBLIC  
26 EMPLOYEES' AUTHORIZATIONS FOR PAYROLL DEDUCTIONS MADE IN ANY  
27 FORM THAT SATISFIES THE REQUIREMENTS OF THE "UNIFORM ELECTRONIC

1 TRANSACTIONS ACT", ARTICLE 71.3 OF TITLE 24, INCLUDING WITHOUT  
2 LIMITATION ELECTRONIC AUTHORIZATIONS, INCLUDING VOICE  
3 AUTHORIZATIONS, THAT MEET THE REQUIREMENTS OF AN ELECTRONIC  
4 SIGNATURE AS DEFINED IN SECTION 24-71.3-102(8). AT THE ELECTION OF  
5 THE EXCLUSIVE REPRESENTATIVE, A PUBLIC EMPLOYEE'S REQUEST TO  
6 CANCEL OR CHANGE AUTHORIZATIONS FOR PAYROLL DEDUCTIONS MUST  
7 BE DIRECTED TO THE EXCLUSIVE REPRESENTATIVE RATHER THAN TO THE  
8 PUBLIC EMPLOYER. IN SUCH CASE, THE EXCLUSIVE REPRESENTATIVE IS  
9 RESPONSIBLE FOR PROCESSING THE REQUEST IN ACCORDANCE WITH THE  
10 TERMS OF THE AUTHORIZATION. AN AUTHORIZATION FOR A PAYROLL  
11 DEDUCTION MAY NOT BE IRREVOCABLE FOR A PERIOD OF MORE THAN ONE  
12 YEAR. AN EXCLUSIVE REPRESENTATIVE THAT CERTIFIES THAT IT HAS AND  
13 WILL MAINTAIN INDIVIDUAL PUBLIC EMPLOYEE AUTHORIZATIONS IS NOT  
14 REQUIRED TO PROVIDE A COPY OF AN INDIVIDUAL AUTHORIZATION TO THE  
15 PUBLIC EMPLOYER UNLESS A DISPUTE ARISES ABOUT THE EXISTENCE OR  
16 TERMS OF THAT AUTHORIZATION. THE EXCLUSIVE REPRESENTATIVE SHALL  
17 INDEMNIFY THE PUBLIC EMPLOYER FOR ANY CLAIMS MADE BY THE PUBLIC  
18 EMPLOYEE FOR DEDUCTIONS MADE IN RELIANCE ON INFORMATION  
19 MAINTAINED BY THE EXCLUSIVE REPRESENTATIVE.

20 **8-3.3-105. Public employers - rights.** (1) UNLESS OTHERWISE  
21 AGREED TO BY A PUBLIC EMPLOYER IN A COLLECTIVE BARGAINING  
22 AGREEMENT, THIS ARTICLE 3.3 DOES NOT IMPAIR THE RIGHT AND  
23 RESPONSIBILITY OF EACH PUBLIC EMPLOYER TO:

24 (a) DETERMINE AND CARRY OUT ANY MISSION, INITIATIVE, TASK  
25 FORCE, AGENDA, POLICY, OR PROGRAM OF ANY DEPARTMENT, DIVISION,  
26 OFFICE, OR OTHER SUBDIVISION OF THE PUBLIC EMPLOYER;

27 (b) ESTABLISH AND OVERSEE BUDGET, FINANCES, AND

- 1 ACCOUNTING;
- 2 (c) DETERMINE THE UTILIZATION OF TECHNOLOGY;
- 3 (d) NEGOTIATE WITH, PROCURE, AND ADMINISTER CONTRACTS  
4 THAT THE PUBLIC EMPLOYER HAS LAWFUL AUTHORITY TO ENTER;
- 5 (e) MAKE, AMEND, ENFORCE, OR REVOKE REASONABLE PERSONAL  
6 CONDUCT RULES SUBJECT TO ITS OBLIGATION TO COLLECTIVELY BARGAIN  
7 WITH AN EXCLUSIVE REPRESENTATIVE; OR
- 8 (f) TAKE ACTIONS AS MAY BE NECESSARY TO CARRY OUT ANY  
9 GOVERNMENT FUNCTION DURING AN EMERGENCY DECLARED BY  
10 COMPETENT AUTHORITY.

11 (2) THE PUBLIC EMPLOYER SHALL NEGOTIATE THE IMPACT AND  
12 EFFECT OF THE EXERCISE OF ANY ACTION TAKEN BY THE EMPLOYER  
13 PURSUANT TO THIS SECTION CONCERNING THE WAGES, HOURS, TERMS, AND  
14 CONDITIONS OF THE EMPLOYMENT OF PUBLIC EMPLOYEES IN THE  
15 BARGAINING UNIT REPRESENTED BY THE EXCLUSIVE REPRESENTATIVE.

16 **8-3.3-106. Director of the division of labor standards and**  
17 **statistics in the department of labor and employment - powers and**  
18 **duties - administration.** (1) THE DIRECTOR SHALL ENFORCE, INTERPRET,  
19 APPLY, AND ADMINISTER THE PROVISIONS OF THIS ARTICLE 3.3 THROUGH  
20 RULEMAKING, HEARINGS, AND APPEALS INCLUDING THE ESTABLISHMENT  
21 OF PROCEDURES FOR:

- 22 (a) THE DESIGNATION OF APPROPRIATE BARGAINING UNITS UNDER  
23 SECTION 8-3.3-110;
- 24 (b) THE SELECTION, CERTIFICATION AND DECERTIFICATION OF  
25 EXCLUSIVE REPRESENTATIVES AS PROVIDED IN THIS ARTICLE 3.3; AND
- 26 (c) THE FILING OF, HEARING ON, AND DETERMINATION OF  
27 COMPLAINTS OF UNFAIR LABOR PRACTICES PURSUANT TO SECTION

1 8-3.3-115.

2 (2) FOR THE PURPOSES OF ADJUDICATING DISPUTES AND ENFORCING  
3 THE PROVISIONS OF THIS ARTICLE 3.3 AND RULES ADOPTED PURSUANT TO  
4 THIS ARTICLE 3.3 THE DIRECTOR MAY CONDUCT HEARINGS AND  
5 ADMINISTER OATHS, EXAMINE WITNESSES AND DOCUMENTS, TAKE  
6 TESTIMONY AND RECEIVE EVIDENCE, AND ISSUE SUBPOENAS TO COMPEL  
7 THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF RECORDS. THE  
8 DIRECTOR SHALL DELEGATE SUCH POWERS IN THIS SUBSECTION (2) TO  
9 HEARING OFFICERS. THE HEARING OFFICER SHALL MAKE A DECISION ON  
10 EACH RELEVANT ISSUE RAISED, INCLUDING FINDINGS OF FACT,  
11 CONCLUSIONS OF LAW, AND AN ORDER.

12 (3) THE DECISION AND ORDER OF A HEARING OFFICER CONSTITUTES  
13 A FINAL AGENCY ACTION PURSUANT TO SECTION 24-4-106. THE DIRECTOR  
14 SHALL PROMPTLY PROVIDE ALL PARTIES WITH A COPY OF THE HEARING  
15 OFFICER'S DECISION VIA U.S. MAIL OR EMAIL. A PARTY MAY SEEK JUDICIAL  
16 REVIEW OF THE DECISION PURSUANT TO SECTION 24-4-106.

17 (4) THE DIRECTOR AND A HEARING OFFICER HAVE THE POWER TO  
18 ENFORCE PROVISIONS OF THIS ARTICLE 3.3 THROUGH THE IMPOSITION OF  
19 APPROPRIATE ADMINISTRATIVE REMEDIES, ACTUAL DAMAGES RELATED TO  
20 EMPLOYEE ORGANIZATION DUES, BACK PAY INCLUDING BENEFITS,  
21 REINSTATEMENT WITH THE SAME SENIORITY STATUS THAT THE PUBLIC  
22 EMPLOYEE WOULD HAVE HAD BUT FOR THE VIOLATION, OTHER REMEDIES  
23 TO ADDRESS ANY LOSS SUFFERED BY A PUBLIC EMPLOYEE OR GROUP OF  
24 PUBLIC EMPLOYEES FROM UNLAWFUL CONDUCT BY A PUBLIC EMPLOYER,  
25 DECLARATORY OR INJUNCTIVE RELIEF OR PROVISIONAL REMEDIES,  
26 INCLUDING TEMPORARY RESTRAINING ORDERS OR PRELIMINARY  
27 INJUNCTIONS.

1           (5) THE DIRECTOR SHALL MAINTAIN CURRENT VERSIONS OF THIS  
2 ARTICLE 3.3, ITS RULES, ALL HEARING OFFICER DECISIONS AND ORDERS,  
3 ALL FINAL JUDGEMENTS AND WRITTEN DECISIONS OF FACT FINDERS PER  
4 SECTION 8-3.3-114, AND ALL ADMINISTRATIVE DETERMINATIONS OF  
5 CERTIFICATION AND DECERTIFICATION OF EXCLUSIVE REPRESENTATIVES  
6 ON THE DIVISION'S WEBSITE.

7           **8-3.3-107. Judicial enforcement.** THE DIRECTOR OR ANY PARTY  
8 OF INTEREST MAY REQUEST THE APPROPRIATE DISTRICT COURT TO  
9 ENFORCE ORDERS ISSUED PURSUANT TO THIS STATUTE, INCLUDING THOSE  
10 FOR APPROPRIATE TEMPORARY RELIEF AND RESTRAINING ORDERS. THE  
11 COURT SHALL CONSIDER THE REQUEST FOR ENFORCEMENT ON THE RECORD  
12 MADE BEFORE THE DIRECTOR OR HEARING OFFICER. IT SHALL UPHOLD THE  
13 ACTION OF THE DIRECTOR AND HEARING OFFICERS AND TAKE APPROPRIATE  
14 ACTION TO ENFORCE THE ACTION UNLESS THE COURT CONCLUDES THAT  
15 THE ORDER IS UNLAWFUL PURSUANT TO SECTION 24-4-106(7)(b).

16           **8-3.3-108. Certification of the employee organization as the**  
17 **exclusive representative.** (1) (a) THE DIRECTOR SHALL CERTIFY AND A  
18 PUBLIC EMPLOYER SHALL RECOGNIZE AN EMPLOYEE ORGANIZATION AS  
19 THE EXCLUSIVE REPRESENTATIVE OF THE BARGAINING UNIT UPON:

20           (I) A SHOWING OF MAJORITY SUPPORT THROUGH SUBMISSION BY AN  
21 EMPLOYEE ORGANIZATION TO THE DIRECTOR A SHOWING OF INTEREST  
22 DEMONSTRATING MORE THAN FIFTY PERCENT OF THE PUBLIC EMPLOYEES  
23 IN A BARGAINING UNIT HAVE AUTHORIZED THE EMPLOYEE ORGANIZATION  
24 TO REPRESENT THEM FOR THE PURPOSE OF COLLECTIVE BARGAINING; OR

25           (II) A SECRET BALLOT ELECTION IN WHICH THE EMPLOYEE  
26 ORGANIZATION RECEIVES MORE THAN FIFTY PERCENT OF THE VALID  
27 BALLOTS CAST. AN ELECTION SHALL TAKE PLACE WHEN, IN ACCORDANCE



1 WITH RULES PRESCRIBED BY THE DIRECTOR, A PETITION IS FILED BY AN  
2 EMPLOYEE ORGANIZATION CONTAINING A SHOWING OF INTEREST OF AT  
3 LEAST THIRTY PERCENT OF THE PUBLIC EMPLOYEES IN A BARGAINING UNIT.

4 (b) THE SUFFICIENCY OF THE SHOWING OF INTEREST IN A  
5 REPRESENTATION ELECTION OR MAJORITY SUPPORT FOR EXCLUSIVE  
6 REPRESENTATION IS AN ADMINISTRATIVE DETERMINATION MADE BY THE  
7 DIRECTOR OR ITS DESIGNEE AND IS NOT SUBJECT TO CHALLENGE BY ANY  
8 PERSON. THE DIRECTOR SHALL NOT DISCLOSE THE IDENTITY OF ANY  
9 PUBLIC EMPLOYEE WHO HAS PARTICIPATED IN THE SHOWING OF INTEREST  
10 OR DEMONSTRATION OF MAJORITY SUPPORT TO ANY PERSON.

11 (2) (a) THE DIRECTOR SHALL DEEM AN EMPLOYEE ORGANIZATION  
12 CERTIFIED IF, ON OR BEFORE JANUARY 1, 2022, A PUBLIC EMPLOYER  
13 RECOGNIZED THE EMPLOYEE ORGANIZATION AS THE EXCLUSIVE  
14 REPRESENTATIVE OF A BARGAINING UNIT. THE EMPLOYEE ORGANIZATION  
15 MUST BE CERTIFIED THE EXCLUSIVE REPRESENTATIVE FOR THE  
16 BARGAINING UNIT UNTIL OR UNLESS THE EMPLOYEE ORGANIZATION IS  
17 DECERTIFIED AS THE EXCLUSIVE REPRESENTATIVE IN ACCORDANCE WITH  
18 THIS ARTICLE 3.3. NO PUBLIC EMPLOYEE POSITIONS IN A DEEMED  
19 CERTIFIED BARGAINING UNIT MAY BE EXCLUDED FROM THE BARGAINING  
20 UNIT, EXCEPT BY AGREEMENT OF THE EXCLUSIVE REPRESENTATIVE AND  
21 THE PUBLIC EMPLOYER.

22 (b) THE DIRECTOR SHALL DEEM AN EMPLOYEE ORGANIZATION  
23 CERTIFIED IF A PUBLIC EMPLOYER AFTER JANUARY 1, 2022 AND BEFORE  
24 THE EFFECTIVE DATE OF THIS ARTICLE 3.3 RECOGNIZED AN EMPLOYEE  
25 ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE IF THE RECOGNITION  
26 WAS BASED ON A DEMONSTRATION OF MAJORITY SUPPORT BY THE  
27 EMPLOYEE ORGANIZATION OR THE EMPLOYEE ORGANIZATION WAS

1       SELECTED IN A SECRET BALLOT ELECTION BY A MAJORITY OF BARGAINING  
2       UNIT PUBLIC EMPLOYEES VOTING IN THE ELECTION. THE EMPLOYEE  
3       ORGANIZATION MUST BE THE CERTIFIED EXCLUSIVE REPRESENTATIVE FOR  
4       THE BARGAINING UNIT UNTIL OR UNLESS THE EMPLOYEE ORGANIZATION IS  
5       DECERTIFIED AS THE EXCLUSIVE REPRESENTATIVE IN ACCORDANCE WITH  
6       THIS ARTICLE 3.3.

7               **8-3.3-109. Process for certification.** (1)(a) UPON THE FILING OF  
8       A PETITION BY AN EMPLOYEE ORGANIZATION SEEKING EXCLUSIVE  
9       RECOGNITION, THE DIRECTOR SHALL REQUIRE THE PUBLIC EMPLOYER TO  
10      DISTRIBUTE NOTICE TO ALL PUBLIC EMPLOYEES IN THE PETITIONED FOR  
11      BARGAINING UNIT WHICH MUST IDENTIFY THE PETITIONER, THE  
12      BARGAINING UNIT SOUGHT BY THE PETITIONER, THE ELECTION PROCESS,  
13      AND AN ADVISEMENT OF PUBLIC EMPLOYEE RIGHTS UNDER SECTIONS 8-3.3  
14      -103(1) AND 8-3.3-103(2).

15              (b) IF THE PETITION FOR EXCLUSIVE RECOGNITION IS BASED ON A  
16      DEMONSTRATION OF MAJORITY SUPPORT WITHOUT AN ELECTION, THE  
17      PUBLIC EMPLOYER SHALL INDICATE THIS ON THE NOTICE REQUIRED BY  
18      SUBSECTION (1)(a) OF THIS SECTION AND THE DIRECTOR SHALL CERTIFY  
19      THE EMPLOYEE ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE UPON  
20      VALIDATION OF MAJORITY SUPPORT OF THE PUBLIC EMPLOYEES UNLESS  
21      ANOTHER EMPLOYEE ORGANIZATION INTERVENES IN ACCORDANCE WITH  
22      SUBSECTION (2) OF THIS SECTION. IF A PETITIONING EMPLOYEE  
23      ORGANIZATION HAS SUBMITTED A SUFFICIENT SHOWING OF INTEREST TO  
24      QUALIFY AS AN INTERVENER, THE DIRECTOR SHALL ORDER A SECRET  
25      BALLOT ELECTION IN ACCORDANCE WITH THIS SECTION.

26              (2) WITHIN TEN DAYS AFTER THE DATE THE NOTICE REQUIRED IN  
27      SUBSECTION (1) IS FIRST DISTRIBUTED, OTHER EMPLOYEE ORGANIZATIONS

1 MAY SEEK TO INTERVENE IN THE CERTIFICATION PROCESS. AN INTERVENER  
2 ORGANIZATION SHALL FILE A PETITION WITH THE DIRECTOR CONTAINING  
3 THE SIGNATURES OF NOT LESS THAN THIRTY PERCENT OF THE PUBLIC  
4 EMPLOYEES IN A BARGAINING UNIT CLAIMED APPROPRIATE.

5 (3) IF THERE IS A DISPUTE AMONG PETITIONERS WHO HAVE  
6 SUBMITTED A SUFFICIENT SHOWING OF INTEREST OR THE PUBLIC EMPLOYER  
7 REGARDING THE APPROPRIATE BARGAINING UNIT, THE DIRECTOR SHALL  
8 PROMPTLY ORDER A HEARING CONDUCTED IN ACCORDANCE WITH THE  
9 RULES. UPON DETERMINATION OF THE APPROPRIATE BARGAINING UNIT,  
10 WHETHER BY CONSENT OF THE PARTIES OR UPON A DECISION BY THE  
11 DIRECTOR OR THEIR DESIGNEE, THE DIRECTOR SHALL DETERMINE THE  
12 SUFFICIENCY OF THE SHOWING OF INTEREST OF EACH PETITIONER. IF A  
13 PETITIONER LACKS A SUFFICIENT SHOWING OF INTEREST, THE DIRECTOR  
14 SHALL PROVIDE THAT PETITIONER WITH A TEN DAY OPPORTUNITY TO  
15 DEMONSTRATE A SUFFICIENT SHOWING OF INTEREST IN THE DETERMINED  
16 APPROPRIATE BARGAINING UNIT.

17 (4) WITHIN TEN DAYS AFTER THE DIRECTOR'S DETERMINATION  
18 THAT A SUFFICIENT SHOWING OF INTEREST HAS BEEN PROVIDED, THE  
19 DIRECTOR SHALL:

20 (a) ORDER THE PUBLIC EMPLOYER TO PROVIDE TO THE PETITIONING  
21 EMPLOYEE ORGANIZATION OR ORGANIZATIONS THE NAMES, JOB TITLES,  
22 WORK LOCATIONS, HOME ADDRESSES, PERSONAL EMAIL ADDRESSES, AND  
23 HOME OR CELLULAR TELEPHONE NUMBERS OF ANY PUBLIC EMPLOYEE IN  
24 THE APPROPRIATE BARGAINING UNIT;

25 (b) ESTABLISH BY CONSENT OR ORDER THE PROCEDURES FOR A  
26 SECRET BALLOT ELECTION; AND

27 (c) ORDER THE PUBLIC EMPLOYER TO DISTRIBUTE A NOTICE

1 PREPARED BY THE DIRECTOR THAT DESCRIBES THE PROCEDURES OF THE  
2 SECRET BALLOT ELECTION TO ALL PUBLIC EMPLOYEES IN THE APPROPRIATE  
3 BARGAINING UNIT.

4 (5) THE BALLOT FOR THE SECRET BALLOT ELECTION MUST  
5 CONTAIN:

6 (a) THE NAME OF ANY EMPLOYEE ORGANIZATION SUBMITTING A  
7 PETITION CONTAINING A SHOWING OF INTEREST OF AT LEAST THIRTY  
8 PERCENT OF THE PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING  
9 UNIT; AND

10 (b) A CHOICE OF "NO REPRESENTATION" FOR PUBLIC EMPLOYEES TO  
11 INDICATE THEY DO NOT DESIRE TO BE REPRESENTED BY AN EMPLOYEE  
12 ORGANIZATION.

13 (6) IF AN EMPLOYEE ORGANIZATION RECEIVES A MAJORITY OF  
14 BALLOTS CAST, THE DIRECTOR SHALL CERTIFY THE EMPLOYEE  
15 ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF ALL PUBLIC  
16 EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT SUBJECT TO ANY  
17 VALID OBJECTIONS TO THE CONDUCT OF THE ELECTION FILED IN  
18 ACCORDANCE WITH THIS ARTICLE 3.3 AND THE RULES OF THE DIRECTOR.  
19 WITHIN TWENTY-EIGHT DAYS AFTER AN ELECTION IN WHICH NO CHOICE  
20 RECEIVES A MAJORITY OF THE BALLOTS CAST, THE DIRECTOR SHALL  
21 CONDUCT A RUNOFF ELECTION BETWEEN THE TWO CHOICES RECEIVING THE  
22 LARGEST NUMBER OF BALLOTS CAST. THE DIRECTOR SHALL CERTIFY THE  
23 RESULTS OF THE ELECTION, AND, IF AN EMPLOYEE ORGANIZATION  
24 RECEIVES A MAJORITY OF THE BALLOTS CAST, THE DIRECTOR SHALL  
25 CERTIFY THE EMPLOYEE ORGANIZATION AS THE EXCLUSIVE  
26 REPRESENTATIVE OF ALL PUBLIC EMPLOYEES IN THE APPROPRIATE  
27 BARGAINING UNIT SUBJECT TO ANY VALID OBJECTIONS TO THE CONDUCT

1 OF THE ELECTION FILED IN ACCORDANCE WITH THIS ARTICLE 3.3 AND THE  
2 RULES OF THE DIRECTOR.

3 (7) WITHIN SEVEN DAYS AFTER CERTIFICATION OF THE RESULTS OF  
4 AN ELECTION, ANY PARTY MAY FILE OBJECTIONS TO THE CONDUCT OF THE  
5 ELECTION OR TO CONDUCT AFFECTING THE RESULTS OF THE ELECTION IN  
6 ACCORDANCE WITH RULES PROMULGATED BY THE DIRECTOR. THE  
7 OBJECTIONS MUST CONTAIN A SHORT STATEMENT OF THE REASONS FOR  
8 THE OBJECTIONS AND BE ACCOMPANIED BY A WRITTEN OFFER OF PROOF  
9 IDENTIFYING EACH WITNESS THE PARTY WOULD CALL TO TESTIFY  
10 CONCERNING THE ISSUE AND A SUMMARY OF THE WITNESS'S TESTIMONY.  
11 UPON A SHOWING OF GOOD CAUSE, THE DIRECTOR MAY EXTEND THE TIME  
12 FOR FILING THE OFFER OF PROOF. THE PARTY FILING THE OBJECTIONS WILL  
13 SERVE A COPY OF THE OBJECTIONS, BUT NOT THE WRITTEN OFFER OF  
14 PROOF, ON EACH OF THE OTHER PARTIES TO THE CASE. IF THE DIRECTOR  
15 OR A DESIGNATED HEARING OFFICER FINDS THAT MISCONDUCT AFFECTED  
16 THE OUTCOME OF THE ELECTION, THE ELECTION SHALL BE INVALIDATED  
17 AND THE DIRECTOR SHALL ORDER A SUBSEQUENT ELECTION FOR THE  
18 PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT WITHIN  
19 TWENTY-EIGHT DAYS OF SUCH FINDING.

20 **8-3.3-110. Determination of appropriate bargaining unit.**

21 (1) THE DIRECTOR SHALL, UPON RECEIPT OF A PETITION FOR A  
22 REPRESENTATION ELECTION FILED BY A LABOR ORGANIZATION, DESIGNATE  
23 THE APPROPRIATE BARGAINING UNIT FOR COLLECTIVE BARGAINING. THE  
24 DESIGNATION MUST BE DETERMINED BY:

- 25 (a) CONSENT OF THE PARTIES; OR
  - 26 (b) AN ADMINISTRATIVE DETERMINATION OF THE DIRECTOR.
- 27 (2) IN DETERMINING THE APPROPRIATENESS OF A BARGAINING UNIT,

1 THE DIRECTOR SHALL CONSIDER:  
2 (a) THE DESIRES OF THE PUBLIC EMPLOYEES;  
3 (b) THE SIMILARITY OF DUTIES, SKILLS, AND WORKING CONDITIONS  
4 OF THE PUBLIC EMPLOYEES INVOLVED;  
5 (c) THE WAGES, HOURS, AND OTHER WORKING CONDITIONS OF THE  
6 PUBLIC EMPLOYEES;  
7 (d) THE ADMINISTRATIVE STRUCTURE OF THE PUBLIC EMPLOYER;  
8 (e) THE HISTORY OF COLLECTIVE BARGAINING WITH THAT PUBLIC  
9 EMPLOYER, IF ANY, AND WITH SIMILAR PUBLIC EMPLOYERS; AND  
10 (f) OTHER FACTORS THAT ARE NORMALLY OR TRADITIONALLY  
11 TAKEN INTO CONSIDERATION IN DETERMINING THE APPROPRIATENESS OF  
12 BARGAINING UNITS IN THE PUBLIC SECTOR.

13 **8-3.3-111. Decertification of exclusive representative.** (1) A  
14 PUBLIC EMPLOYEE IN THE BARGAINING UNIT OR AN EMPLOYEE  
15 ORGANIZATION MAY INITIATE DECERTIFICATION OF AN EMPLOYEE  
16 ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE UPON SUBMISSION TO  
17 THE DIRECTOR OF A SHOWING OF INTEREST DEMONSTRATING THIRTY  
18 PERCENT OF THE PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING  
19 UNIT REQUEST DECERTIFICATION OF AN EXISTING EXCLUSIVE  
20 REPRESENTATIVE OR A SHOWING OF INTEREST DEMONSTRATING THIRTY  
21 PERCENT OF THE PUBLIC EMPLOYEES IN THE BARGAINING UNIT AUTHORIZE  
22 AN EMPLOYEE ORGANIZATION OTHER THAN THE EXCLUSIVE  
23 REPRESENTATIVE TO REPRESENT THEM FOR PURPOSES OF COLLECTIVE  
24 BARGAINING. DECERTIFICATION ELECTIONS MUST BE HELD IN A MANNER  
25 SIMILAR TO CERTIFICATION ELECTIONS AS PRESCRIBED BY THE DIRECTOR  
26 PROVIDED THAT AN INCUMBENT EXCLUSIVE REPRESENTATIVE EMPLOYEE  
27 ORGANIZATION SHALL NOT BE REQUIRED TO FILE A SHOWING OF INTEREST

1 TO BE PLACED ON THE BALLOT.

2 (2) IF THERE IS A COLLECTIVE BARGAINING AGREEMENT IN EFFECT,  
3 A PETITION FOR A DECERTIFICATION ELECTION MAY ONLY BE MADE TO THE  
4 DIRECTOR NO EARLIER THAN NINETY DAYS AND NO LATER THAN SIXTY  
5 DAYS PRIOR TO THE EXPIRATION OF THE COLLECTIVE BARGAINING  
6 AGREEMENT; EXCEPT THAT A REQUEST FOR AN ELECTION MAY BE FILED AT  
7 ANY TIME AFTER THE EXPIRATION OF THE THIRD YEAR OF A COLLECTIVE  
8 BARGAINING AGREEMENT THAT HAS A TERM OF MORE THAN THREE YEARS

9 (3) IF AN EXCLUSIVE REPRESENTATIVE HAS BEEN CERTIFIED BUT NO  
10 COLLECTIVE BARGAINING AGREEMENT IS IN EFFECT, THE DIRECTOR SHALL  
11 NOT ACT ON A REQUEST FOR A DECERTIFICATION ELECTION EARLIER THAN  
12 TWELVE MONTHS AFTER THE CERTIFICATION OF AN EMPLOYEE  
13 ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE.

14 **8-3.3-112. Obligation to negotiate in good faith.** (1) THE PUBLIC  
15 EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE OR THEIR  
16 REPRESENTATIVE HAVE THE AUTHORITY TO AND THE OBLIGATION TO  
17 COLLECTIVELY BARGAIN IN GOOD FAITH. THE OBLIGATION TO  
18 COLLECTIVELY BARGAIN IN GOOD FAITH DOES NOT COMPEL EITHER PARTY  
19 TO AGREE TO A PROPOSAL OR MAKE A CONCESSION.

20 (2) THE DUTY TO COLLECTIVELY BARGAIN IN GOOD FAITH REQUIRES  
21 A PUBLIC EMPLOYER, UPON REQUEST OF THE EXCLUSIVE REPRESENTATIVE,  
22 TO PROVIDE INFORMATION THAT MAY BE RELEVANT TO THE TERMS AND  
23 CONDITIONS OF EMPLOYMENT OR THE INTERPRETATION OF THE  
24 COLLECTIVE BARGAINING AGREEMENT. THE OBLIGATION ALSO INCLUDES  
25 A PUBLIC EMPLOYER'S DUTY TO FURNISH DATA TO THE EXCLUSIVE  
26 REPRESENTATIVE THAT:

27 (a) IS NORMALLY MAINTAINED BY THE PUBLIC EMPLOYER IN THE

1 REGULAR COURSE OF BUSINESS; AND

2 (b) IS REASONABLY AVAILABLE AND NECESSARY FOR FULL AND  
3 PROPER DISCUSSION, UNDERSTANDING, AND NEGOTIATION OF SUBJECTS  
4 WITHIN THE SCOPE OF COLLECTIVE BARGAINING OR SUBJECT TO A  
5 GRIEVANCE UNDER A COLLECTIVE BARGAINING AGREEMENT; AND

6 (c) DOES NOT INCLUDE AN OBLIGATION TO FURNISH INFORMATION  
7 THAT CONSTITUTES GUIDANCE, ADVICE, COUNSEL, OR TRAINING PROVIDED  
8 FOR MANAGEMENT OFFICIALS OR SUPERVISORS RELATING TO COLLECTIVE  
9 BARGAINING.

10 **8-3.3-113. Collective bargaining agreement.** (1) AN AGREEMENT  
11 NEGOTIATED BETWEEN AN EXCLUSIVE REPRESENTATIVE AND A PUBLIC  
12 EMPLOYER CONSTITUTES THE COLLECTIVE BARGAINING AGREEMENT  
13 BETWEEN THE PARTIES.

14 (2) A COLLECTIVE BARGAINING AGREEMENT ENTERED INTO UNDER  
15 THIS ARTICLE 3.3 MUST BE FOR A TERM OF AT LEAST TWELVE MONTHS AND  
16 NOT MORE THAN SIXTY MONTHS. A COLLECTIVE BARGAINING AGREEMENT  
17 SHALL REMAIN IN EFFECT UNTIL REPLACED BY A SUBSEQUENT COLLECTIVE  
18 BARGAINING AGREEMENT.

19 (3) (a) A COLLECTIVE BARGAINING AGREEMENT MUST INCLUDE A  
20 PROVISION THAT PROHIBITS DISCIPLINARY ACTION AGAINST A PUBLIC  
21 EMPLOYEE UNLESS THERE IS JUST CAUSE.

22 (b) IF THERE IS AN EXISTING LAW, POLICY, ORDINANCE, OR  
23 CHARTER PROVISION THAT APPLIES TO A PUBLIC EMPLOYER THAT  
24 PROVIDES PROCEDURES FOR THE APPEAL OF PUBLIC EMPLOYEE DISCIPLINE,  
25 INCLUDING TERMINATIONS, A PUBLIC EMPLOYEE MAY ELECT TO APPEAL A  
26 DISCIPLINARY ACTION EITHER UNDER THE APPLICABLE APPEALS  
27 PROCEDURE ESTABLISHED BY THAT LAW, POLICY, ORDINANCE, OR



1 CHARTER PROVISION, OR UNDER A GRIEVANCE PROCEDURE ESTABLISHED  
2 IN A COLLECTIVE BARGAINING AGREEMENT APPLICABLE TO THE PUBLIC  
3 EMPLOYEE, BUT NOT BOTH. A PUBLIC EMPLOYEE'S ELECTION OF A REMEDY  
4 IS IRREVOCABLE AND IS MADE AT THE TIME THE EMPLOYEE TIMELY FILES  
5 A WRITTEN DISCIPLINARY APPEAL UNDER THE NEGOTIATED GRIEVANCE  
6 PROCEDURE OR THE PROCEDURE ESTABLISHED BY LAW, POLICY,  
7 ORDINANCE OR CHARTER PROVISION, WHICHEVER OCCURS FIRST.

8 (4)(a) A COLLECTIVE BARGAINING AGREEMENT SHALL PROVIDE FOR  
9 A GRIEVANCE PROCEDURE CULMINATING IN FINAL AND BINDING  
10 ARBITRATION TO RESOLVE DISPUTES OVER THE INTERPRETATION,  
11 APPLICATION, AND ENFORCEMENT OF ANY PROVISION OF THE COLLECTIVE  
12 BARGAINING AGREEMENT.

13 (b) AN EXCLUSIVE REPRESENTATIVE OR THE PUBLIC EMPLOYER  
14 MAY SEEK JUDICIAL REVIEW OR CONFIRMATION OF AN ARBITRATOR'S  
15 DECISION OF AFTER THE FINAL STEP IN A COLLECTIVE BARGAINING  
16 AGREEMENT GRIEVANCE PROCEDURE IN A COURT OF COMPETENT  
17 JURISDICTION. THE DECISION OF AN ARBITRATOR MUST BE ENFORCED AND  
18 THE PARTIES SHALL COMPLY WITH THE DECISION AND AWARD UNLESS A  
19 COURT CONCLUDES THAT:

20 (I) THE DECISION AND AWARD WAS PROCURED BY CORRUPTION,  
21 FRAUD, OR OTHER UNDUE MEANS;

22 (II) THE ARBITRATOR EXCEEDED THE ARBITRATOR'S AUTHORITY;

23 (III) THE ARBITRATOR'S DECISION AND AWARD VIOLATED PUBLIC  
24 POLICY;

25 (IV) THE ARBITRATOR ENGAGED IN MANIFEST DISREGARD OF THE  
26 LAW; OR

27 (V) THE ARBITRATION DENIED THE PARTIES A FUNDAMENTALLY

1 FAIR HEARING.

2 (5) A COLLECTIVE BARGAINING AGREEMENT SHALL NOT:

3 (a) DELAY THE PROMPT INTERVIEWING OF PUBLIC EMPLOYEES  
4 UNDER INVESTIGATION FOR INCIDENTS INVOLVING PHYSICAL FORCE,  
5 INCIDENTS OF DEADLY PHYSICAL FORCE, OR INCIDENTS THAT RESULTED IN  
6 DEATH OR SERIOUS BODILY INJURY, EXCEPT THAT A PUBLIC EMPLOYEE  
7 MUST BE GIVEN SUFFICIENT TIME TO HAVE THE PUBLIC EMPLOYEE'S  
8 EXCLUSIVE REPRESENTATIVE PRESENT AT ANY EXAMINATION IN  
9 CONNECTION WITH AN INVESTIGATION IN ACCORDANCE WITH SECTION  
10 8-3.3-103(3);

11 (b) PERMIT A PUBLIC EMPLOYEE TO USE PAID TIME FOR ANY OR ALL  
12 OF A SUSPENSION WHEN THE SUSPENSION WAS PROPERLY IMPOSED FOR  
13 JUST CAUSE;

14 (c) PERMIT THE EXPUNGEMENT OF DISCIPLINARY RECORDS FROM A  
15 PUBLIC EMPLOYEE'S PERSONNEL FILE FOR DISCIPLINE PROPERLY IMPOSED  
16 FOR INCIDENTS INVOLVING PHYSICAL FORCE, INCIDENTS OF DEADLY  
17 PHYSICAL FORCE, INCIDENTS THAT RESULTED IN DEATH OR SERIOUS  
18 BODILY INJURY, OR INCIDENTS WHERE A COURT HAS FOUND A DEPRIVATION  
19 OF AN INDIVIDUAL'S RIGHTS UNDER THE STATE CONSTITUTION; OR

20 (d) IMPOSE LIMITS ON THE PERIOD OF TIME DURING WHICH A PUBLIC  
21 EMPLOYEE MAY BE DISCIPLINED OR AN INVESTIGATION MAY OCCUR FOR  
22 INCIDENTS INVOLVING PHYSICAL FORCE, INCIDENTS OF DEADLY PHYSICAL  
23 FORCE, INCIDENTS THAT RESULTED IN DEATH OR SERIOUS BODILY INJURY,  
24 OR INCIDENTS ALLEGING A DEPRIVATION OF AN INDIVIDUAL'S RIGHTS  
25 UNDER THE STATE CONSTITUTION.

26 (6) A COLLECTIVE BARGAINING AGREEMENT MUST BE CONSISTENT  
27 WITH APPLICABLE STATE AND FEDERAL LAW. THE UNENFORCEABILITY OR

1 INVALIDITY OF ANY CLAUSE IN A COLLECTIVE BARGAINING AGREEMENT  
2 MUST NOT HAVE AN IMPACT ON THE ENFORCEABILITY OR VALIDITY OF  
3 ANY OTHER CLAUSE.

4 (7) ANY TERM OF A COLLECTIVE BARGAINING AGREEMENT  
5 REQUIRING THE APPROPRIATION OF FUNDS SHALL BE SUBMITTED TO THE  
6 GOVERNING BODY OF THE PUBLIC EMPLOYER FOR SUCH APPROPRIATION AT  
7 THE MEETING FOLLOWING NOTIFICATION BY THE EXCLUSIVE  
8 REPRESENTATIVE TO THE PUBLIC EMPLOYER THAT IT HAS APPROVED THE  
9 AGREEMENT IN ACCORDANCE WITH THE INTERNAL PROCEDURES OF THE  
10 EXCLUSIVE REPRESENTATIVE.

11 **8-3.3-114. Impasse resolution.** (1) IF AN IMPASSE ARISES ON ONE  
12 OR MORE ISSUES DURING THE NEGOTIATION OF A COLLECTIVE BARGAINING  
13 AGREEMENT, THE EXCLUSIVE REPRESENTATIVE AND THE PUBLIC  
14 EMPLOYER SHALL ENGAGE IN THE DISPUTE RESOLUTION PROCESS  
15 ESTABLISHED IN THIS SECTION OR AN ALTERNATIVE PROCEDURE  
16 ESTABLISHED BY MUTUAL AGREEMENT. THE DEADLINES IN THIS SECTION  
17 MAY BE EXTENDED BY MUTUAL AGREEMENT OF THE PARTIES.

18 (2) (a) IF THE EXCLUSIVE REPRESENTATIVE AND THE PUBLIC  
19 EMPLOYER CANNOT REACH AN AGREEMENT ON ONE OR MORE ISSUES  
20 SUBJECT TO COLLECTIVE BARGAINING WITHIN NINETY CALENDAR DAYS  
21 AFTER COMMENCING MEETINGS TO NEGOTIATE, OR BY THE ONE HUNDRED  
22 TWENTIETH DAY PRIOR TO THE EXPIRATION OF AN EXISTING COLLECTIVE  
23 BARGAINING AGREEMENT, WHICHEVER IS EARLIER, EITHER PARTY MAY  
24 REQUEST THE ASSISTANCE OF A MEDIATOR. IF MEDIATION IS REQUESTED  
25 BY EITHER PARTY, BARGAINING MUST CONTINUE WITH THE AID OF A  
26 MEDIATOR.

27 (b) IF THE PARTIES CANNOT AGREE ON A MEDIATOR WITHIN SEVEN

1 CALENDAR DAYS FROM THE REQUEST FOR MEDIATION, THEY SHALL  
2 REQUEST MEDIATION ASSISTANCE FROM THE FEDERAL MEDIATION AND  
3 CONCILIATION SERVICE. THE COST OF MEDIATION SERVICES, IF ANY, SHALL  
4 BE SHARED EQUALLY BY THE PARTIES.

5 (3) MEDIATION MUST CONTINUE FOR SIXTY DAYS OR UNTIL SIXTY  
6 DAYS PRIOR TO THE EXPIRATION OF THE EXISTING COLLECTIVE  
7 BARGAINING AGREEMENT OR UNTIL THE MEDIATOR DETERMINES THAT  
8 MEDIATION SERVICES ARE NO LONGER NECESSARY OR EFFECTIVE,  
9 WHICHEVER IS SOONER. MEDIATION MAY CONTINUE THEREAFTER UPON  
10 MUTUAL AGREEMENT OF THE PARTIES.

11 (4) (a) IF THE PARTIES REMAIN AT IMPASSE FOLLOWING MEDIATION,  
12 EITHER PARTY MAY REQUEST FACT FINDING IN ACCORDANCE WITH RULES  
13 PROMULGATED BY THE DIRECTOR.

14 (b) THE DIRECTOR SHALL MAINTAIN A ROSTER OF QUALIFIED FACT  
15 FINDERS, EACH OF WHOM MUST BE REGISTERED WITH THE FEDERAL  
16 MEDIATION AND CONCILIATION SERVICE OR THE AMERICAN ARBITRATION  
17 ASSOCIATION OR SHALL REQUIRE THE PARTIES TO SELECT FROM A ROSTER  
18 OF LABOR ARBITRATORS OBTAINED DIRECTLY FROM THE FEDERAL  
19 MEDIATION AND CONCILIATION SERVICE OR THE AMERICAN ARBITRATION  
20 ASSOCIATION. THE PARTIES SHALL SELECT A FACT FINDER FROM A LIST OF  
21 SEVEN NAMES FROM THE ROSTER.

22 (c) UNLESS THE PARTIES OTHERWISE AGREE, THE FACT FINDER WILL  
23 MAKE A RECOMMENDATION TO ACCEPT THE FINAL OFFER OF THE  
24 EXCLUSIVE REPRESENTATIVE OR THE FINAL OFFER OF THE PUBLIC  
25 EMPLOYER ON EACH ISSUE IN DISPUTE.

26 (d) IN ARRIVING AT A RECOMMENDATION, THE FACT FINDER SHALL  
27 CONSIDER:

1 (I) THE FINANCIAL ABILITY OF THE PUBLIC EMPLOYER TO MEET THE  
2 COSTS OF ANY PROPOSED SETTLEMENT;

3 (II) THE INTERESTS AND WELFARE OF THE PUBLIC;

4 (III) THE COMPENSATION, HOURS, AND TERMS AND CONDITIONS OF  
5 EMPLOYMENT OF THE PUBLIC EMPLOYEES INVOLVED IN THE COLLECTIVE  
6 BARGAINING IN COMPARISON WITH THE COMPENSATION, HOURS, AND  
7 TERMS AND CONDITIONS OF EMPLOYMENT OF OTHER EMPLOYEES IN THE  
8 PUBLIC AND PRIVATE SECTORS IN COMPARABLE COMMUNITIES;

9 (IV) THE STIPULATIONS OF THE PARTIES;

10 (V) THE LAWFUL AUTHORITY OF THE PUBLIC EMPLOYER;

11 (VI) CHANGES IN THE COST OF LIVING; AND

12 (VII) OTHER FACTORS THAT ARE NORMALLY OR TRADITIONALLY  
13 TAKEN INTO CONSIDERATION IN THE DETERMINATION OF COMPENSATION,  
14 HOURS, AND TERMS AND CONDITIONS OF EMPLOYMENT THROUGH  
15 VOLUNTARY COLLECTIVE BARGAINING, INTEREST ARBITRATION, OR  
16 OTHERWISE BETWEEN PARTIES IN PUBLIC AND PRIVATE EMPLOYMENT.

17 (e) THE PARTIES SHALL SHARE THE COST OF THE FACT FINDER  
18 EQUALLY.

19 (5) THE EXCLUSIVE REPRESENTATIVE SHALL APPROVE OR REJECT  
20 THE RECOMMENDATION OF THE FACT FINDER IN ACCORDANCE WITH ITS  
21 INTERNAL PROCEDURES. IF THE EXCLUSIVE REPRESENTATIVE APPROVES OF  
22 THE RECOMMENDATION, THE GOVERNING BODY OF THE PUBLIC EMPLOYER  
23 SHALL VOTE TO ACCEPT OR REJECT THE RECOMMENDATION AT A REGULAR  
24 OR SPECIAL MEETING OPEN TO THE PUBLIC IMMEDIATELY FOLLOWING  
25 NOTIFICATION BY THE EXCLUSIVE REPRESENTATIVE THAT IT HAS  
26 ACCEPTED THE RECOMMENDATION. IF THE PARTIES ARE AT IMPASSE  
27 FOLLOWING CONSIDERATION OF THE RECOMMENDATIONS OF THE FACT

1 FINDER, EACH PARTY REMAINS OBLIGATED TO COLLECTIVELY BARGAIN IN  
2 GOOD FAITH TO RESOLVE THE IMPASSE.

3 (6) EXCEPT FOR THE RECOMMENDATION OF A FACT FINDER, ALL  
4 DOCUMENTS, PROPOSALS, AND DRAFT AND TENTATIVE AGREEMENTS  
5 DRAFTED OR EXCHANGED PURSUANT TO THE PROCESS ESTABLISHED IN  
6 THIS SECTION ARE PRIVILEGED, ARE NOT PUBLIC RECORDS, AND ARE NOT  
7 SUBJECT TO INSPECTION PURSUANT TO THE "COLORADO OPEN RECORDS  
8 ACT", PART 2 OF ARTICLE 72 OF TITLE 24.

9 **8-3.3-115. Unfair labor practices.** (1) A PUBLIC EMPLOYER OR  
10 EXCLUSIVE REPRESENTATIVE SHALL NOT REFUSE TO NEGOTIATE IN GOOD  
11 FAITH WITH RESPECT TO WAGES, HOURS, AND OTHER TERMS AND  
12 CONDITIONS OF EMPLOYMENT INCLUDING REFUSING TO COOPERATE IN ANY  
13 IMPASSE RESOLUTION PROCEDURE.

14 (2) A PUBLIC EMPLOYER, ITS REPRESENTATIVES, ITS AGENTS, OR  
15 ANYONE ACTING ON BEHALF OF THE PUBLIC EMPLOYER SHALL NOT:

16 (a) DISCRIMINATE AGAINST, COERCE, INTIMIDATE, INTERFERE WITH,  
17 OR IMPOSE REPRISALS AGAINST, OR THREATEN TO DISCRIMINATE AGAINST,  
18 COERCE, INTIMIDATE, INTERFERE WITH, OR IMPOSE REPRISALS AGAINST,  
19 ANY PUBLIC EMPLOYEE FOR FORMING OR ASSISTING AN EMPLOYEE  
20 ORGANIZATION OR EXPRESSING THE PUBLIC EMPLOYEE'S VIEWS  
21 REGARDING PUBLIC EMPLOYEE REPRESENTATION OR WORKPLACE ISSUES  
22 OR THE RIGHTS GRANTED TO THE PUBLIC EMPLOYEE IN THIS ARTICLE 3.3;

23 (b) DETER OR DISCOURAGE PUBLIC EMPLOYEES OR PUBLIC  
24 EMPLOYEE APPLICANTS FROM BECOMING OR REMAINING MEMBERS OF AN  
25 EMPLOYEE ORGANIZATION OR FROM AUTHORIZING PAYROLL DEDUCTIONS  
26 FOR DUES OR FEES TO AN EMPLOYEE ORGANIZATION;

27 (c) USE ANY PUBLIC FUNDS OR OFFICIAL POSITION TO SUPPORT OR

1 OPPOSE AN EMPLOYEE ORGANIZATION EXCEPT THE PROVISION OF ROUTINE  
2 SERVICES AND FACILITIES AND PAID TIME FOR UNION REPRESENTATIVES  
3 MAY BE PROVIDED BY A PUBLIC EMPLOYER PURSUANT TO A COLLECTIVE  
4 BARGAINING AGREEMENT BETWEEN THE PUBLIC EMPLOYER AND AN  
5 EXCLUSIVE REPRESENTATIVE;

6 (d) DOMINATE OR INTERFERE IN THE ADMINISTRATION OF AN  
7 EMPLOYEE ORGANIZATION;

8 (e) DISCHARGE OR DISCRIMINATE AGAINST A PUBLIC EMPLOYEE  
9 BECAUSE THE PUBLIC EMPLOYEE HAS FILED AN AFFIDAVIT, PETITION, OR  
10 COMPLAINT OR GIVEN ANY INFORMATION OR TESTIMONY PURSUANT TO  
11 THIS ARTICLE 3.3 OR A COLLECTIVE BARGAINING AGREEMENT OR CHOSEN  
12 TO BE REPRESENTED BY AN EXCLUSIVE REPRESENTATIVE;

13 (f) DENY THE RIGHTS ACCOMPANYING CERTIFICATION AS THE  
14 EXCLUSIVE REPRESENTATIVE PURSUANT TO THIS ARTICLE 3.3;

15 (g) COLLECTIVELY BARGAIN IN REGARD TO MATTERS COVERED BY  
16 THIS ARTICLE 3.3 WITH A PUBLIC EMPLOYEE OR GROUP OF PUBLIC  
17 EMPLOYEES IN THE BARGAINING UNIT OR AN EMPLOYEE ORGANIZATION  
18 PURPORTEDLY REPRESENTING THE PUBLIC EMPLOYEES IN A BARGAINING  
19 UNIT OTHER THAN THE EXCLUSIVE REPRESENTATIVE;

20 (h) DISCLOSE TO A PRIVATE ENTITY, OTHER THAN THE EXCLUSIVE  
21 REPRESENTATIVE, PERSONALLY IDENTIFIABLE INFORMATION ABOUT  
22 PUBLIC EMPLOYEES WITHIN THE BARGAINING UNIT THAT IS EXEMPT FROM  
23 DISCLOSURE PURSUANT TO LAW; OR

24 (i) OTHERWISE FAIL TO COMPLY WITH THE REQUIREMENTS OF THIS  
25 ARTICLE 3.3.

26 (3)(a) AN EMPLOYEE ORGANIZATION OR EXCLUSIVE  
27 REPRESENTATIVE SHALL NOT:

1 (I) INTERFERE WITH, RESTRAIN, OR COERCE A PUBLIC EMPLOYEE  
2 WITH RESPECT TO THE RIGHTS GRANTED IN THIS ARTICLE 3.3 OR WITH  
3 RESPECT TO SELECTING AN EXCLUSIVE REPRESENTATIVE; OR

4 (II) WILLFULLY OR DELIBERATELY FAIL TO FAIRLY REPRESENT A  
5 PUBLIC EMPLOYEE WHO IS IN A BARGAINING UNIT EXCLUSIVELY  
6 REPRESENTED BY THE EMPLOYEE ORGANIZATION IN THE NEGOTIATION OR  
7 ENFORCEMENT OF THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT.

8 (III) OTHERWISE FAIL TO COMPLY WITH THE REQUIREMENTS OF THIS  
9 ARTICLE 3.3.

10 (b) THIS SUBSECTION (3) DOES NOT PROHIBIT AN EXCLUSIVE  
11 REPRESENTATIVE FROM PROVIDING LEGAL, ECONOMIC, OR JOB-RELATED  
12 SERVICES OR BENEFITS BEYOND THOSE ESTABLISHED IN ANY APPLICABLE  
13 COLLECTIVE BARGAINING AGREEMENT EXCLUSIVELY TO ITS MEMBERS.

14 (4) AN AGGRIEVED PARTY IS BARRED FROM FILING A CLAIM THAT  
15 ALLEGES THAT EITHER THE PUBLIC EMPLOYER OR EMPLOYEE  
16 ORGANIZATION HAS VIOLATED THIS SECTION UNLESS THE CLAIM IS FILED  
17 WITHIN SIX MONTHS AFTER THE DATE ON WHICH THE AGGRIEVED PARTY  
18 KNEW OR REASONABLY SHOULD HAVE KNOWN OF THE ALLEGED  
19 VIOLATION.

20 **8-3.3-116. Existing bargaining relationships.** AN EXCLUSIVE  
21 REPRESENTATIVE DEEMED CERTIFIED PURSUANT TO THIS ARTICLE 3.3 HAS  
22 THE RIGHT TO COLLECTIVELY BARGAIN MATTERS NOT COVERED BY AN  
23 EXISTING COLLECTIVE BARGAINING AGREEMENT NEGOTIATED PRIOR TO  
24 THE EFFECTIVE DATE OF THIS ARTICLE 3.3 IF THE SUBJECTS PROPOSED FOR  
25 BARGAINING WERE OUTSIDE OF THE LAWFUL SCOPE OF BARGAINING PRIOR  
26 TO THE EFFECTIVE DATE OF THIS ARTICLE 3.3.

27 **SECTION 3. Effective date.** This act takes effect January 31,



1 2023.

2           **SECTION 4. Safety clause.** The general assembly hereby finds,  
3 determines, and declares that this act is necessary for the immediate  
4 preservation of the public peace, health, or safety.