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Seventy-third General Assembly
STATE OF COLORADO

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LLS NO. 22-0978.02 Kristen Forrestal x4217

HOUSE BILL

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Fenberg,

BILL TOPIC: "Collective Bargaining Counties"

DEADLINES: File by: 4/21/2022

A BILL FOR AN ACT

101 CONCERNING THE EXPANSION OF COUNTY EMPLOYEES' RIGHTS TO
102 COLLECTIVE BARGAINING.

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>.)

Beginning January 1, 2023, the bill grants the public employees of a county the right to:

- Organize, form, join, or assist an employee organization or refrain from doing so;
- Engage in collective bargaining;
- Engage in other concerted activities for the purpose of

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

- collective bargaining or other mutual aid or protection;
- Communicate with other county 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 clarifies that county employees may participate fully in the political process.

Additionally, the bill:

- Grants the exclusive representative of county employees the right to access public employees at work, through electronic communication, and through other means, including employee orientations;
- Requires counties to honor county employee authorizations for payroll deductions for the exclusive representative;
- Clarifies that specific rights of county employers are not impaired 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, to hold hearings and impose administrative remedies;
- Authorizes the director or any party of interest to request a district court to enforce orders made pursuant to the bill;
- Sets forth the process by which an employee organization is certified and decertified as the exclusive representative of county employees;
- Sets forth the process by which an appropriate bargaining unit is determined; and
- Requires the county 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 county that must:

- Be for a term of at least 12 months and not more than 60 months; and
- Provide a grievance procedure that culminates in final and binding arbitration.

The bill prohibits a collective bargaining agreement from:

- Delaying the prompt interviewing of county employees under investigation ;

1 THE "COLLECTIVE BARGAINING BY COUNTY EMPLOYEES ACT".

2 **8-3.3-102. Definitions.** AS USED IN THIS ARTICLE 3.3, UNLESS THE
3 CONTEXT OTHERWISE REQUIRES:

4 (1) "BARGAINING UNIT" MEANS A GROUP OF COUNTY EMPLOYEES
5 IN A UNIT DEEMED APPROPRIATE FOR THE PURPOSE OF COLLECTIVE
6 BARGAINING IN ACCORDANCE WITH SECTION 8-3.3-110.

7 (2) "COLLECTIVE BARGAINING" OR "COLLECTIVELY BARGAIN"
8 MEANS THE PERFORMANCE OF THE MUTUAL OBLIGATION OF A COUNTY,
9 THROUGH ITS DESIGNATED REPRESENTATIVES, AND AN EXCLUSIVE
10 REPRESENTATIVE TO:

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

14 (b) RESOLVE QUESTIONS ARISING UNDER A COLLECTIVE
15 BARGAINING AGREEMENT THROUGH A NEGOTIATED GRIEVANCE
16 PROCEDURE CULMINATING IN FINAL AND BINDING ARBITRATION; AND

17 (c) EXECUTE A WRITTEN CONTRACT INCORPORATING ANY
18 AGREEMENTS REACHED.

19 (3) "COLLECTIVE BARGAINING AGREEMENT" MEANS AN
20 AGREEMENT NEGOTIATED BETWEEN AN EXCLUSIVE REPRESENTATIVE AND
21 A COUNTY, INCLUDING AN AGREEMENT REACHED THROUGH AN IMPASSE
22 RESOLUTION PROCESS PURSUANT TO SECTION 8-3.3-114.

23 (4) "COMPENSATION" MEANS:

24 (a) BASE WAGE OR SALARY;

25 (b) ANY FORM OF DIRECT MONETERY PAYMENTS;

26 (c) HEALTH, ACCIDENT, LIFE, AND DISABILITY INSURANCE;

27 (d) PENSION PROGRAMS;

1 (e) PAID TIME OFF;

2 (f) UNIFORM AND EQUIPMENT ALLOWANCES; and

3 (g) EXPENSE REIMBURSEMENT.

4 (5) (a) "COUNTY" MEANS A COUNTY IN THIS STATE, EXCEPT FOR A
5 CITY AND COUNTY.

6 (b) "COUNTY" DOES NOT INCLUDE:

7 (I) THE STATE OR ANY POLITICAL SUBDIVISION OF THE STATE
8 WHERE THE STATE OR POLITICAL SUBDIVISION OF THE STATE ACQUIRES OR
9 OPERATES A MASS TRANSPORTATION SYSTEM OR ANY CARRIER BY
10 RAILROAD, EXPRESS COMPANY, OR SLEEPING CAR COMPANY SUBJECT TO
11 THE FEDERAL "RAILWAY LABOR ACT", 45 U.S.C. SEC. 151 ET SEQ., AS
12 AMENDED;

13 (II) A MUNICIPALITY ;

14 (III) A SCHOOL DISTRICT, A DISTRICT CHARTER SCHOOL
15 AUTHORIZED PURSUANT TO PART 1 OF ARTICLE 30.5 OF TITLE 22, OR AN
16 INSTITUTE CHARTER SCHOOL AUTHORIZED PURSUANT TO PART 5 OF
17 ARTICLE 30.5 OF TITLE 22;

18 (IV) ANY DISTRICT, BUSINESS IMPROVEMENT DISTRICT, SPECIAL
19 DISTRICT CREATED PURSUANT TO TITLE 32, AUTHORITY, OR OTHER
20 POLITICAL SUBDIVISION OF THE STATE; OR

21 (V) A PUBLIC HOSPITAL ESTABLISHED BY A COUNTY PURSUANT TO
22 PART 3 OF ARTICLE 3 OF TITLE 25.

23 (6) "COUNTY EMPLOYEE" MEANS A PERSON EMPLOYED BY A
24 COUNTY, INCLUDING A PERSON WHOSE EMPLOYMENT WITH THE COUNTY
25 HAS CEASED DUE TO AN UNFAIR LABOR PRACTICE OR A DISCHARGE FOR
26 OTHER THAN JUST CAUSE.

27 (7) "DEADLY PHYSICAL FORCE" MEANS FORCE, THE INTENDED,

1 NATURAL, AND PROBABLE CONSEQUENCE OF WHICH IS TO PRODUCE DEATH,
2 AND WHICH DOES, IN FACT, PRODUCE DEATH.

3 (8) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND
4 EMPLOYMENT.

5 (9) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.

6 (10) "DIVISION" MEANS THE DIVISION OF LABOR STANDARDS AND
7 STATISTICS IN THE DEPARTMENT.

8 (11) "EMPLOYEE ORGANIZATION" MEANS A NONPROFIT
9 ORGANIZATION THAT ENGAGES WITH A COUNTY CONCERNING WAGES,
10 HOURS, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT AND THAT
11 REPRESENTS OR SEEKS TO REPRESENT COUNTY EMPLOYEES IN A
12 BARGAINING UNIT.

13 (12) "EXCLUSIVE REPRESENTATIVE" MEANS THE EMPLOYEE
14 ORGANIZATION CERTIFIED OR RECOGNIZED AS THE REPRESENTATIVE OF
15 EMPLOYEES IN A BARGAINING UNIT PURSUANT TO THE TERMS OF THIS
16 ARTICLE 3.3.

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

22 (14) "FINAL OFFER" MEANS THE WRITTEN OFFER MADE:

23 (a) LATEST IN TIME BY AN EXCLUSIVE REPRESENTATIVE TO A
24 COUNTY OR BY A COUNTY TO AN EXCLUSIVE 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 (15) "INTEREST-BASED BARGAINING" MEANS A METHOD OF

1 COLLECTIVE BARGAINING THAT INVOLVES MUTUAL COLLABORATION.

2

3 (16) "NEW EMPLOYEE ORIENTATION" MEANS THE ONBOARDING
4 PROCESS OF A NEWLY HIRED COUNTY EMPLOYEE, WHETHER IN PERSON,
5 ONLINE, OR THROUGH OTHER MEANS OR MEDIUMS, IN WHICH COUNTY
6 EMPLOYEES ARE ADVISED OF THEIR EMPLOYMENT STATUS, RIGHTS,
7 BENEFITS, DUTIES, AND RESPONSIBILITIES OR ANY OTHER
8 EMPLOYMENT-RELATED MATTERS.

9 (17) "PHYSICAL FORCE" MEANS THE APPLICATION OF PHYSICAL
10 TECHNIQUES OR TACTICS, CHEMICAL AGENTS, OR WEAPONS TO ANOTHER
11 PERSON.

12 (18) "SERIOUS BODILY INJURY" MEANS BODILY INJURY THAT,
13 EITHER AT THE TIME OF THE ACTUAL INJURY OR AT A LATER TIME,
14 INVOLVES:

15 (a) A SUBSTANTIAL RISK OF:

16 (I) DEATH;

17 (II) SERIOUS PERMANENT DISFIGUREMENT; OR

18 (III) PROTRACTED LOSS OR IMPAIRMENT OF THE FUNCTION OF ANY
19 PART OR ORGAN OF THE BODY; OR

20 (b) A BREAK, FRACTURE, OR BURN OF THE SECOND OR THIRD
21 DEGREE.

22 (19) "SHOWING OF INTEREST" MEANS WRITTEN OR ELECTRONIC
23 DOCUMENTATION THAT PROVIDES EVIDENCE OF COUNTY EMPLOYEE
24 MEMBERSHIP OR SUPPORT FOR AN EMPLOYEE ORGANIZATION FOR
25 PURPOSES OF EXCLUSIVE REPRESENTATION. "SHOWING OF INTEREST"
26 INCLUDES ANY ELECTRONIC SIGNATURE ACCEPTABLE UNDER THE
27 "UNIFORM ELECTRONIC TRANSACTIONS ACT", ARTICLE 71.3 OF TITLE 24.

1 (20) "TERMS AND CONDITIONS OF EMPLOYMENT" MEANS MATTERS
2 AFFECTING THE EMPLOYMENT AND WORKING CONDITIONS OF COUNTY
3 EMPLOYEES, INCLUDING HOURS AND PLACE OF WORK.

4 **8-3.3-103. County employees - rights - obligations.** (1) COUNTY
5 EMPLOYEES HAVE THE RIGHT TO:

- 6 (a) SELF-ORGANIZE;
- 7 (b) FORM, JOIN, OR ASSIST AN EMPLOYEE ORGANIZATION;
- 8 (c) ENGAGE IN THE COLLECTIVE BARGAINING PROCESS AND THE
9 FORMATION OF A COLLECTIVE BARGAINING AGREEMENT THROUGH
10 REPRESENTATIVES OF THEIR OWN CHOOSING;
- 11 (d) ENGAGE IN OTHER CONCERTED ACTIVITIES FOR THE PURPOSE
12 OF COLLECTIVE BARGAINING OR OTHER MUTUAL AID OR PROTECTION; AND
- 13 (e) REFRAIN FROM ANY OR ALL CONCERTED ACTIVITIES WITHOUT
14 INTERFERENCE, CONSTRAINT, OR COERCION BY A COUNTY OR EMPLOYEE
15 ORGANIZATION.

16 (2) COUNTY EMPLOYEES HAVE THE RIGHT TO COMMUNICATE WITH
17 ONE ANOTHER AND WITH EMPLOYEE ORGANIZATION REPRESENTATIVES
18 CONCERNING ORGANIZATION, REPRESENTATION, WORKPLACE ISSUES,
19 COLLECTIVE BARGAINING, AND THE BUSINESS AND PROGRAMS OF AN
20 EMPLOYEE ORGANIZATION AT COUNTY EMPLOYEE WORK SITES AND BY
21 MEANS OF E-MAIL SYSTEMS, TEXT MESSAGES, OR OTHER ELECTRONIC
22 COMMUNICATIONS; TELEPHONE; PAPER DOCUMENTS; AND OTHER MEANS
23 OF COMMUNICATION SUBJECT TO REASONABLE RESTRICTIONS. UPON
24 CERTIFICATION OF AN EXCLUSIVE REPRESENTATIVE, THE RESTRICTIONS
25 MUST BE DETERMINED THROUGH COLLECTIVE BARGAINING.

26 (3) COUNTY EMPLOYEES HAVE THE RIGHT TO HAVE THEIR
27 EXCLUSIVE REPRESENTATIVE BE PRESENT AT:

1 (a) ANY FORMAL DISCUSSION BETWEEN ONE OR MORE
2 REPRESENTATIVES OF THE COUNTY AND ONE OR MORE COUNTY
3 EMPLOYEES IN THE BARGAINING UNIT OR THEIR REPRESENTATIVES
4 CONCERNING A GRIEVANCE, A PERSONNEL POLICY OR PRACTICE, OR ANY
5 OTHER GENERAL CONDITION OF EMPLOYMENT; OR

6 (b) ANY EXAMINATION OF A COUNTY EMPLOYEE IN THE
7 BARGAINING UNIT BY A REPRESENTATIVE OF THE COUNTY IN CONNECTION
8 WITH AN INVESTIGATION IF:

9 (I) THE COUNTY EMPLOYEE REASONABLY BELIEVES THAT THE
10 EXAMINATION MAY RESULT IN DISCIPLINARY ACTION AGAINST THE
11 COUNTY EMPLOYEE; AND

12 (II) THE COUNTY EMPLOYEE REQUESTS REPRESENTATION.

13 (4) A COUNTY SHALL ANNUALLY INFORM ITS COUNTY EMPLOYEES
14 IN A BARGAINING UNIT WHO ARE REPRESENTED BY AN EXCLUSIVE
15 REPRESENTATIVE OF THEIR RIGHTS UNDER SUBSECTION (3)(b) OF THIS
16 SECTION.

17 (5) COUNTY EMPLOYEES HAVE THE RIGHT TO FULLY PARTICIPATE
18 IN THE POLITICAL PROCESS. COUNTY EMPLOYEES, DURING NONWORKING
19 HOURS, MAY SPEAK WITH MEMBERS OF THE PUBLIC AND THE COUNTY ON
20 ANY MATTER OF PUBLIC CONCERN, INCLUDING THE TERMS AND
21 CONDITIONS OF THEIR EMPLOYMENT, AND MAY ENGAGE IN OTHER
22 POLITICAL ACTIVITIES IN THE SAME MANNER AS OTHER RESIDENTS OF
23 COLORADO, WITHOUT DISCRIMINATION, INTIMIDATION, OR RETALIATION.

24 **8-3.3-104. Exclusive representatives - rights.** (1) A COUNTY
25 SHALL GIVE THE EXCLUSIVE REPRESENTATIVE REASONABLE ACCESS TO
26 COUNTY EMPLOYEES AT WORK, THROUGH ELECTRONIC COMMUNICATION
27 AND OTHER MEANS. REASONABLE ACCESS MUST BE DETERMINED

1 THROUGH COLLECTIVE BARGAINING.

2 (2) AT THE END OF EACH CALENDAR QUARTER, A COUNTY SHALL
3 PROVIDE TO THE EXCLUSIVE REPRESENTATIVE THE FOLLOWING
4 INFORMATION FOR EACH COUNTY EMPLOYEE IN THE BARGAINING UNIT:

5 (a) THE NAME, EMPLOYEE IDENTIFICATION NUMBER, DEPARTMENT,
6 JOB CLASSIFICATION, JOB TITLE, WORK TELEPHONE NUMBER, WORK E-MAIL
7 ADDRESS, WORK ADDRESS, WORK LOCATION, SALARY, AND DATE OF HIRE
8 OF EACH COUNTY EMPLOYEE AS CONTAINED IN THE COUNTY'S RECORDS;
9 AND

10 (b) THE HOME ADDRESS, HOME AND PERSONAL CELLULAR
11 TELEPHONE NUMBERS, AND PERSONAL E-MAIL ADDRESS OF EACH COUNTY
12 EMPLOYEE, UNLESS DIRECTED BY THE COUNTY EMPLOYEE NOT TO PROVIDE
13 SOME OR ALL OF THE INFORMATION.

14 (3) (a) (I) WITHIN THIRTY DAYS AFTER A COUNTY EMPLOYEE IS
15 HIRED, THE COUNTY SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE
16 WITH AN OPPORTUNITY TO MEET WITH THAT COUNTY EMPLOYEE DURING
17 WORK TIME AS DETERMINED PURSUANT TO SUBSECTION (3)(a)(III) OF THIS
18 SECTION.

19 (II) THE COUNTY SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE
20 NOTICE AT LEAST TEN DAYS IN ADVANCE OF A NEW EMPLOYEE
21 ORIENTATION; EXCEPT THAT A SHORTER NOTICE MAY BE PROVIDED WHEN
22 THERE IS AN URGENT NEED, CRITICAL TO THE COUNTY'S OPERATIONS, THAT
23 WAS NOT REASONABLY FORESEEABLE.

24 (III) THE COUNTY AND THE EXCLUSIVE REPRESENTATIVE SHALL
25 DETERMINE THE STRUCTURE, TIME, AND MANNER OF THE EMPLOYEE
26 ORGANIZATION'S ACCESS TO COUNTY EMPLOYEES THROUGH COLLECTIVE
27 BARGAINING. THE COLLECTIVE BARGAINING AGREEMENT MUST PROVIDE

1 THE EXCLUSIVE REPRESENTATIVE ACCESS TO THE COUNTY'S EMPLOYEE
2 ORIENTATION AND ORIENTATION MATERIALS AND INFORMATION.

3 (b) THE COUNTY SHALL PAY ITS COUNTY EMPLOYEES FOR THE TIME
4 EMPLOYEES MEET WITH THE EXCLUSIVE REPRESENTATIVE PURSUANT TO
5 THIS SUBSECTION (3). THE COUNTY SHALL PAY EACH COUNTY EMPLOYEE
6 THE SAME RATE OF PAY THAT THE EMPLOYEE IS PAID DURING NORMAL
7 WORK HOURS.

8 (4) THE COUNTY SHALL MAKE PAYROLL DEDUCTIONS FOR
9 MEMBERSHIP DUES AND OTHER PAYMENTS THAT COUNTY EMPLOYEES
10 AUTHORIZE TO BE MADE TO THE EXCLUSIVE REPRESENTATIVE AND
11 RELATED ENTITIES. THE EXCLUSIVE REPRESENTATIVE AND RELATED
12 ENTITIES SHALL BE THE ONLY ORGANIZATIONS FOR WHICH THE COUNTY
13 SHALL MAKE PAYROLL DEDUCTIONS FROM COUNTY EMPLOYEES WHO ARE
14 IN A BARGAINING UNIT REPRESENTED BY THE EXCLUSIVE REPRESENTATIVE.

15 (5) (a) THE COUNTY SHALL HONOR THE TERMS OF COUNTY
16 EMPLOYEES' AUTHORIZATIONS FOR PAYROLL DEDUCTIONS MADE IN ANY
17 FORM THAT SATISFIES THE REQUIREMENTS OF THE "UNIFORM ELECTRONIC
18 TRANSACTIONS ACT", ARTICLE 71.3 OF TITLE 24, INCLUDING WITHOUT
19 LIMITATION ELECTRONIC AUTHORIZATIONS, INCLUDING VOICE
20 AUTHORIZATIONS, THAT MEET THE REQUIREMENTS OF AN ELECTRONIC
21 SIGNATURE AS DEFINED IN SECTION 24-71.3-102 (8).

22 (b) AT THE ELECTION OF THE EXCLUSIVE REPRESENTATIVE, A
23 COUNTY EMPLOYEE'S REQUEST TO CANCEL OR CHANGE AUTHORIZATIONS
24 FOR PAYROLL DEDUCTIONS MUST BE DIRECTED TO THE EXCLUSIVE
25 REPRESENTATIVE RATHER THAN TO THE COUNTY. IN SUCH CASE, THE
26 EXCLUSIVE REPRESENTATIVE IS RESPONSIBLE FOR PROCESSING THE
27 REQUEST IN ACCORDANCE WITH THE TERMS OF THE AUTHORIZATION. AN

1 AUTHORIZATION FOR A PAYROLL DEDUCTION MAY NOT BE IRREVOCABLE
2 FOR A PERIOD OF MORE THAN ONE YEAR.

3 (c) AN EXCLUSIVE REPRESENTATIVE THAT CERTIFIES THAT IT HAS
4 AND WILL MAINTAIN INDIVIDUAL COUNTY EMPLOYEE AUTHORIZATIONS IS
5 NOT REQUIRED TO PROVIDE A COPY OF AN INDIVIDUAL AUTHORIZATION TO
6 THE COUNTY UNLESS A DISPUTE ARISES ABOUT THE EXISTENCE OR TERMS
7 OF THAT AUTHORIZATION. THE EXCLUSIVE REPRESENTATIVE SHALL
8 INDEMNIFY THE COUNTY FOR ANY CLAIMS MADE BY THE COUNTY
9 EMPLOYEE FOR DEDUCTIONS MADE IN RELIANCE ON INFORMATION
10 MAINTAINED BY THE EXCLUSIVE REPRESENTATIVE.

11 **8-3.3-105. Counties - rights.** (1) UNLESS OTHERWISE AGREED TO
12 BY A COUNTY IN A COLLECTIVE BARGAINING AGREEMENT, THIS ARTICLE
13 3.3 DOES NOT IMPAIR THE RIGHT AND RESPONSIBILITY OF EACH COUNTY
14 TO:

15 (a) DETERMINE AND CARRY OUT ANY MISSION, INITIATIVE, TASK
16 FORCE, AGENDA, POLICY, OR PROGRAM OF ANY DEPARTMENT, DIVISION,
17 OFFICE, OR OTHER SUBDIVISION OF THE COUNTY;

18 (b) ESTABLISH AND OVERSEE A BUDGET, FINANCES, AND
19 ACCOUNTING;

20 (c) DETERMINE THE UTILIZATION OF TECHNOLOGY;

21 (d) NEGOTIATE, PROCURE, AND ADMINISTER CONTRACTS THAT THE
22 COUNTY HAS LAWFUL AUTHORITY TO ENTER;

23 (e) MAKE, AMEND, ENFORCE, OR REVOKE REASONABLE PERSONAL
24 CONDUCT RULES SUBJECT TO ITS OBLIGATION TO COLLECTIVELY BARGAIN
25 WITH AN EXCLUSIVE REPRESENTATIVE; OR

26 (f) TAKE ACTIONS AS MAY BE NECESSARY TO CARRY OUT ANY
27 GOVERNMENT FUNCTION DURING AN EMERGENCY DECLARED BY A

1 COMPETENT AUTHORITY.

2 **8-3.3-106. Director powers and duties - administration - rules**

3 **- enforcement - hearing officers.** (1) THE DIRECTOR SHALL ENFORCE,
4 INTERPRET, APPLY, AND ADMINISTER THE PROVISIONS OF THIS ARTICLE 3.3
5 THROUGH RULE-MAKING, HEARINGS, AND APPEALS, INCLUDING THE
6 ESTABLISHMENT OF PROCEDURES FOR:

7 (a) DESIGNATING APPROPRIATE BARGAINING UNITS UNDER
8 SECTION 8-3.3-110;

9 (b) SELECTING, CERTIFYING, AND DECERTIFYING EXCLUSIVE
10 REPRESENTATIVES AS PROVIDED IN THIS ARTICLE 3.3; AND

11 (c) FILING, HEARING, AND DETERMINING COMPLAINTS OF UNFAIR
12 LABOR PRACTICES PURSUANT TO SECTION 8-3.3-115.

13 (2) FOR THE PURPOSES OF ADJUDICATING DISPUTES AND
14 ENFORCING THE PROVISIONS OF THIS ARTICLE 3.3 AND RULES ADOPTED
15 PURSUANT TO THIS ARTICLE 3.3, THE DIRECTOR MAY CONDUCT HEARINGS
16 AND ADMINISTER OATHS, EXAMINE WITNESSES AND DOCUMENTS, TAKE
17 TESTIMONY AND RECEIVE EVIDENCE, AND ISSUE SUBPOENAS TO COMPEL
18 THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF RECORDS.

19 (3) (a) THE DIRECTOR MAY DELEGATE THE POWERS SPECIFIED IN
20 SUBSECTION (2) OF THIS SECTION TO HEARING OFFICERS. A HEARING
21 OFFICER SHALL MAKE A DECISION ON EACH RELEVANT ISSUE RAISED,
22 INCLUDING FINDINGS OF FACT, CONCLUSIONS OF LAW, AND AN ORDER.

23 (b) THE DECISION AND ORDER OF A HEARING OFFICER CONSTITUTES
24 A FINAL AGENCY ACTION PURSUANT TO SECTION 24-4-106. THE DIRECTOR
25 SHALL PROMPTLY PROVIDE ALL PARTIES WITH A COPY OF THE HEARING
26 OFFICER'S DECISION BY UNITED STATES MAIL OR BY ELECTRONIC MAIL. A
27 PARTY MAY SEEK JUDICIAL REVIEW OF THE DECISION PURSUANT TO

1 SECTION 24-4-106.

2 (4) THE DIRECTOR AND A HEARING OFFICER HAVE THE POWER TO
3 ENFORCE PROVISIONS OF THIS ARTICLE 3.3 THROUGH THE IMPOSITION OF:

4 (a) APPROPRIATE ADMINISTRATIVE REMEDIES;

5 (b) ACTUAL DAMAGES RELATED TO EMPLOYEE ORGANIZATION
6 DUES;

7 (c) BACK PAY, INCLUDING BENEFITS;

8 (d) REINSTATEMENT OF THE COUNTY EMPLOYEE WITH THE SAME
9 SENIORITY STATUS THAT THE EMPLOYEE WOULD HAVE HAD BUT FOR THE
10 VIOLATION;

11 (e) OTHER REMEDIES TO ADDRESS ANY LOSS SUFFERED BY A
12 COUNTY EMPLOYEE OR GROUP OF COUNTY EMPLOYEES FROM UNLAWFUL
13 CONDUCT BY A COUNTY; AND

14 (f) DECLARATORY OR INJUNCTIVE RELIEF OR PROVISIONAL
15 REMEDIES, INCLUDING TEMPORARY RESTRAINING ORDERS OR PRELIMINARY
16 INJUNCTIONS.

17 (5) THE DIRECTOR SHALL MAINTAIN ON THE DIVISION'S WEBSITE:

18 (a) CURRENT VERSIONS OF THIS ARTICLE 3.3 AND THE RULES
19 ADOPTED PURSUANT TO THIS ARTICLE 3.3;

20 (b) ALL HEARING OFFICER DECISIONS AND ORDERS;

21 (c) ALL FINAL JUDGMENTS AND WRITTEN DECISIONS OF FACT
22 FINDERS PURSUANT TO SECTION 8-3.3-114; AND

23 (d) ALL ADMINISTRATIVE DETERMINATIONS OF CERTIFICATION AND
24 DECERTIFICATION OF EXCLUSIVE REPRESENTATIVES.

25 (6) THE DIRECTOR MAY ADOPT RULES AS NECESSARY TO
26 IMPLEMENT AND ADMINISTER THIS ARTICLE 3.3, INCLUDING RULES:

27 (a) TO ESTABLISH PROCEDURES AS SPECIFIED IN SUBSECTION (1) OF

1 THIS SECTION;

2 (b) GOVERNING HEARINGS CONDUCTED PURSUANT TO THIS
3 ARTICLE 3.3;

4 (c) REGARDING OBJECTIONS TO THE CONDUCT OF AN ELECTION
5 PURSUANT TO SECTION 8-3.3-109; AND

6 (d) REGARDING FACT FINDING PURSUANT TO SECTION 8-3.3-114.

7 (7) THE DIVISION SHALL PARTNER WITH THE FEDERAL MEDIATION
8 AND CONCILIATION SERVICE TO OFFER TRAINING IN INTEREST-BASED
9 BARGAINING UPON THE MUTUAL REQUEST OF AN EMPLOYEE
10 ORGANIZATION AND A COUNTY.

11 **8-3.3-107. Judicial enforcement.** THE DIRECTOR OR ANY PARTY
12 OF INTEREST MAY REQUEST THE APPROPRIATE DISTRICT COURT TO
13 ENFORCE ORDERS ISSUED PURSUANT TO THIS ARTICLE 3.3, INCLUDING
14 THOSE FOR APPROPRIATE TEMPORARY RELIEF AND RESTRAINING ORDERS.
15 THE COURT SHALL CONSIDER THE REQUEST FOR ENFORCEMENT BASED ON
16 THE RECORD MADE BEFORE THE DIRECTOR OR HEARING OFFICER. THE
17 COURT SHALL UPHOLD THE ACTION OF THE DIRECTOR OR HEARING OFFICER
18 AND TAKE APPROPRIATE ACTION TO ENFORCE THE ACTION, UNLESS THE
19 COURT CONCLUDES THAT THE ORDER IS UNLAWFUL PURSUANT TO SECTION
20 24-4-106 (7)(b).

21 **8-3.3-108. Certification of the employee organization as the**
22 **exclusive representative - rules.** (1) (a) ON AND AFTER JANUARY 31,
23 2023, THE DIRECTOR SHALL CERTIFY AND A COUNTY SHALL RECOGNIZE AN
24 EMPLOYEE ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF A
25 BARGAINING UNIT UPON:

26 (I) A SHOWING OF MAJORITY SUPPORT THROUGH SUBMISSION BY
27 AN EMPLOYEE ORGANIZATION TO THE DIRECTOR OF A SHOWING OF

1 INTEREST DEMONSTRATING THAT MORE THAN FIFTY PERCENT OF THE
2 COUNTY EMPLOYEES IN A BARGAINING UNIT HAVE AUTHORIZED THE
3 EMPLOYEE ORGANIZATION TO REPRESENT THEM FOR THE PURPOSE OF
4 COLLECTIVE BARGAINING; OR

5 (II) A SECRET BALLOT ELECTION IN WHICH THE EMPLOYEE
6 ORGANIZATION RECEIVES MORE THAN FIFTY PERCENT OF THE VALID
7 BALLOTS CAST. AN ELECTION SHALL TAKE PLACE WHEN, IN ACCORDANCE
8 WITH RULES PROMULGATED BY THE DIRECTOR, A PETITION IS FILED BY AN
9 EMPLOYEE ORGANIZATION CONTAINING A SHOWING OF INTEREST OF AT
10 LEAST THIRTY PERCENT OF THE COUNTY EMPLOYEES IN A BARGAINING
11 UNIT.

12 (b) THE SUFFICIENCY OF THE SHOWING OF INTEREST IN A
13 REPRESENTATION ELECTION OR MAJORITY SUPPORT FOR EXCLUSIVE
14 REPRESENTATION IS AN ADMINISTRATIVE DETERMINATION MADE BY THE
15 DIRECTOR OR THE DIRECTOR'S DESIGNEE AND IS NOT SUBJECT TO
16 CHALLENGE BY ANY PERSON. THE DIRECTOR SHALL NOT DISCLOSE THE
17 IDENTITY OF ANY COUNTY EMPLOYEE WHO HAS PARTICIPATED IN THE
18 SHOWING OF INTEREST OR DEMONSTRATION OF MAJORITY SUPPORT TO ANY
19 PERSON.

20 (2) (a) THE DIRECTOR SHALL DEEM AN EMPLOYEE ORGANIZATION
21 CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE IF, ON OR BEFORE
22 JANUARY 1, 2022, A COUNTY RECOGNIZED THE EMPLOYEE ORGANIZATION
23 AS THE EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT. THE
24 EMPLOYEE ORGANIZATION MUST BE CERTIFIED AS THE EXCLUSIVE
25 REPRESENTATIVE FOR THE BARGAINING UNIT UNTIL OR UNLESS THE
26 EMPLOYEE ORGANIZATION IS DECERTIFIED AS THE EXCLUSIVE
27 REPRESENTATIVE IN ACCORDANCE WITH THIS ARTICLE 3.3.

1 (b) THE DIRECTOR SHALL DEEM AN EMPLOYEE ORGANIZATION
2 CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE IF A COUNTY, AFTER
3 JANUARY 1, 2022, AND BEFORE JANUARY 31, 2023, RECOGNIZED THE
4 EMPLOYEE ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE AND THE
5 RECOGNITION WAS BASED ON A DEMONSTRATION OF MAJORITY SUPPORT
6 BY THE EMPLOYEE ORGANIZATION OR THE EMPLOYEE ORGANIZATION WAS
7 SELECTED IN A SECRET BALLOT ELECTION BY A MAJORITY OF BARGAINING
8 UNIT COUNTY EMPLOYEES VOTING IN THE ELECTION. THE EMPLOYEE
9 ORGANIZATION MUST BE CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE
10 OF THE BARGAINING UNIT UNTIL OR UNLESS THE EMPLOYEE ORGANIZATION
11 IS DECERTIFIED AS THE EXCLUSIVE REPRESENTATIVE IN ACCORDANCE WITH
12 THIS ARTICLE 3.3.

13 (c) NO COUNTY EMPLOYEE POSITIONS IN A DEEMED CERTIFIED
14 BARGAINING UNIT MAY BE EXCLUDED FROM THE BARGAINING UNIT,
15 EXCEPT BY AGREEMENT OF THE EXCLUSIVE REPRESENTATIVE AND THE
16 COUNTY.

17 **8-3.3-109. Process for employee organization certification -**
18 **intervening employee organizations - secret ballot elections - rules.**

19 (1) (a) UPON THE FILING OF A PETITION BY AN EMPLOYEE ORGANIZATION
20 SEEKING EXCLUSIVE RECOGNITION, THE DIRECTOR SHALL REQUIRE THE
21 COUNTY TO DISTRIBUTE NOTICE TO ALL COUNTY EMPLOYEES IN THE
22 APPLICABLE BARGAINING UNIT THAT MUST IDENTIFY THE PETITIONER, THE
23 BARGAINING UNIT SOUGHT BY THE PETITIONER, THE ELECTION PROCESS,
24 AND AN ADVISEMENT OF COUNTY EMPLOYEE RIGHTS UNDER SECTION
25 8-3.3-103 (1), (2), AND (3).

26 (b) IF THE PETITION FOR EXCLUSIVE RECOGNITION IS BASED ON A
27 DEMONSTRATION OF MAJORITY SUPPORT WITHOUT AN ELECTION, THE

1 COUNTY SHALL INDICATE THIS ON THE NOTICE REQUIRED BY SUBSECTION
2 (1)(a) OF THIS SECTION, AND THE DIRECTOR SHALL CERTIFY THE EMPLOYEE
3 ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE UPON VALIDATION OF
4 MAJORITY SUPPORT OF THE COUNTY EMPLOYEES, UNLESS ANOTHER
5 EMPLOYEE ORGANIZATION INTERVENES IN ACCORDANCE WITH SUBSECTION
6 (2) OF THIS SECTION. IF A PETITIONING EMPLOYEE ORGANIZATION HAS
7 SUBMITTED A SUFFICIENT SHOWING OF INTEREST TO QUALIFY AS AN
8 INTERVENER, THE DIRECTOR SHALL ORDER A SECRET BALLOT ELECTION IN
9 ACCORDANCE WITH THIS SECTION.

10 (2) WITHIN TEN DAYS AFTER THE DATE THE NOTICE REQUIRED IN
11 SUBSECTION (1) OF THIS SECTION IS FIRST DISTRIBUTED, OTHER EMPLOYEE
12 ORGANIZATIONS MAY SEEK TO INTERVENE IN THE CERTIFICATION PROCESS.
13 AN INTERVENER ORGANIZATION SHALL FILE A PETITION WITH THE
14 DIRECTOR CONTAINING THE SIGNATURES OF NOT LESS THAN THIRTY
15 PERCENT OF THE COUNTY EMPLOYEES IN THE BARGAINING UNIT CLAIMED
16 TO BE APPROPRIATE BY THE INTERVENER.

17 (3) IF THERE IS A DISPUTE REGARDING THE POSITIONS TO BE
18 INCLUDED IN THE APPROPRIATE BARGAINING UNIT, THE DIRECTOR SHALL
19 PROMPTLY ORDER A HEARING CONDUCTED IN ACCORDANCE WITH THE
20 RULES ADOPTED PURSUANT TO THIS ARTICLE 3.3. UPON DETERMINATION
21 OF THE COMPOSITION OF THE APPROPRIATE BARGAINING UNIT, WHETHER
22 BY CONSENT OF THE PARTIES OR UPON A DECISION BY THE DIRECTOR OR
23 THE DIRECTOR'S DESIGNEE, THE DIRECTOR SHALL DETERMINE THE
24 SUFFICIENCY OF THE SHOWING OF INTEREST OF EACH PETITIONER. IF A
25 PETITIONER LACKS A SUFFICIENT SHOWING OF INTEREST, THE DIRECTOR
26 SHALL PROVIDE THAT PETITIONER WITH A TEN-DAY OPPORTUNITY TO
27 DEMONSTRATE A SUFFICIENT SHOWING OF INTEREST IN THE BARGAINING

1 UNIT THAT WAS DEEMED APPROPRIATE.

2 (4) WITHIN TEN DAYS AFTER THE DIRECTOR'S DETERMINATION
3 THAT A SUFFICIENT SHOWING OF INTEREST HAS BEEN PROVIDED PURSUANT
4 TO SUBSECTION (3) OF THIS SECTION, THE DIRECTOR SHALL:

5 (a) ORDER THE COUNTY TO PROVIDE TO THE PETITIONING
6 EMPLOYEE ORGANIZATION OR ORGANIZATIONS THE NAMES, JOB TITLES,
7 WORK LOCATIONS, HOME ADDRESSES, PERSONAL E-MAIL ADDRESSES, AND
8 HOME OR CELLULAR TELEPHONE NUMBERS OF ANY COUNTY EMPLOYEE IN
9 THE APPROPRIATE BARGAINING UNIT;

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

12 (c) ORDER THE COUNTY TO DISTRIBUTE A NOTICE PREPARED BY
13 THE DIRECTOR THAT DESCRIBES THE PROCEDURES OF THE SECRET BALLOT
14 ELECTION TO ALL COUNTY EMPLOYEES IN THE APPROPRIATE BARGAINING
15 UNIT.

16 (5) THE BALLOT FOR THE SECRET BALLOT ELECTION MUST
17 CONTAIN:

18 (a) THE NAME OF ANY EMPLOYEE ORGANIZATION SUBMITTING A
19 PETITION CONTAINING A SHOWING OF INTEREST OF AT LEAST THIRTY
20 PERCENT OF THE COUNTY EMPLOYEES IN THE APPROPRIATE BARGAINING
21 UNIT; AND

22 (b) A CHOICE OF "NO REPRESENTATION" FOR COUNTY EMPLOYEES
23 TO INDICATE THEY DO NOT DESIRE TO BE REPRESENTED BY AN EMPLOYEE
24 ORGANIZATION.

25 (6) (a) IF AN EMPLOYEE ORGANIZATION RECEIVES A MAJORITY OF
26 BALLOTS CAST IN A SECRET BALLOT ELECTION, THE DIRECTOR SHALL
27 CERTIFY THE EMPLOYEE ORGANIZATION AS THE EXCLUSIVE

1 REPRESENTATIVE OF ALL COUNTY EMPLOYEES IN THE APPROPRIATE
2 BARGAINING UNIT SUBJECT TO ANY VALID OBJECTIONS TO THE CONDUCT
3 OF THE ELECTION FILED IN ACCORDANCE WITH THIS ARTICLE 3.3 AND THE
4 RULES OF THE DIRECTOR.

5 (b) WITHIN TWENTY-EIGHT DAYS AFTER A SECRET BALLOT
6 ELECTION IN WHICH NO EMPLOYEE ORGANIZATION RECEIVES A MAJORITY
7 OF THE BALLOTS CAST, THE DIRECTOR SHALL CONDUCT A RUNOFF
8 ELECTION BETWEEN THE TWO EMPLOYEE ORGANIZATIONS RECEIVING THE
9 LARGEST NUMBER OF BALLOTS CAST. THE DIRECTOR SHALL CERTIFY THE
10 RESULTS OF THE ELECTION, AND, IF AN EMPLOYEE ORGANIZATION
11 RECEIVES A MAJORITY OF THE BALLOTS CAST, THE DIRECTOR SHALL
12 CERTIFY THE EMPLOYEE ORGANIZATION AS THE EXCLUSIVE
13 REPRESENTATIVE OF ALL COUNTY EMPLOYEES IN THE APPROPRIATE
14 BARGAINING UNIT, SUBJECT TO ANY VALID OBJECTIONS TO THE CONDUCT
15 OF THE ELECTION FILED IN ACCORDANCE WITH THIS ARTICLE 3.3 AND THE
16 RULES OF THE DIRECTOR.

17 (7) WITHIN SEVEN DAYS AFTER CERTIFICATION OF THE RESULTS OF
18 A SECRET BALLOT ELECTION, ANY PARTY MAY FILE OBJECTIONS TO THE
19 CONDUCT OF THE ELECTION OR TO CONDUCT AFFECTING THE RESULTS OF
20 THE ELECTION IN ACCORDANCE WITH RULES PROMULGATED BY THE
21 DIRECTOR. THE OBJECTIONS MUST CONTAIN A SHORT STATEMENT OF THE
22 REASONS FOR THE OBJECTIONS AND BE ACCOMPANIED BY A WRITTEN
23 OFFER OF PROOF IDENTIFYING EACH WITNESS THE PARTY WOULD CALL TO
24 TESTIFY CONCERNING THE ISSUE AND A SUMMARY OF THE WITNESS'S
25 TESTIMONY. UPON A SHOWING OF GOOD CAUSE, THE DIRECTOR MAY
26 EXTEND THE TIME FOR FILING THE OFFER OF PROOF. THE PARTY FILING THE
27 OBJECTIONS SHALL SERVE A COPY OF THE OBJECTIONS, BUT NOT THE

1 WRITTEN OFFER OF PROOF, ON EACH OF THE OTHER PARTIES TO THE CASE.
2 IF THE DIRECTOR OR A DESIGNATED HEARING OFFICER FINDS THAT
3 MISCONDUCT AFFECTED THE OUTCOME OF THE ELECTION, THE DIRECTOR
4 SHALL INVALIDATE THE ELECTION AND ORDER A SUBSEQUENT ELECTION
5 FOR THE COUNTY EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT
6 WITHIN TWENTY-EIGHT DAYS AFTER THE FINDING.

7 **8-3.3-110. Determination of appropriate bargaining unit.**

8 (1) THE DIRECTOR SHALL, UPON RECEIPT OF A PETITION FOR A
9 REPRESENTATION ELECTION OR PETITION FOR CERTIFICATION BASED ON A
10 DEMONSTRATION OF MAJORITY SUPPORT FILED BY AN EMPLOYEE
11 ORGANIZATION, DESIGNATE THE APPROPRIATE BARGAINING UNIT FOR
12 COLLECTIVE BARGAINING IN ACCORDANCE WITH THIS SECTION.

13 (2) (a) SUBJECT TO SUBSECTION (2)(b) OF THIS SECTION, THE
14 APPROPRIATE BARGAINING UNITS FOR COUNTY EMPLOYEES MUST CONSIST
15 OF:

16 (I) COUNTY EMPLOYEES IN LABOR, SERVICE, AND TRADES
17 POSITIONS;

18 (II) COUNTY EMPLOYEES IN POSITIONS THAT ARE NONEXEMPT
19 FROM THE FEDERAL "FAIR LABOR STANDARDS ACT OF 1938", 29 U.S.C.
20 SEC. 201 ET SEQ., AS AMENDED, OTHER THAN THE POSITIONS DESCRIBED IN
21 SUBSECTIONS (2)(a)(I) AND (2)(a)(IV) OF THIS SECTION;

22 (III) COUNTY EMPLOYEES IN PUBLIC SAFETY POSITIONS, INCLUDING
23 CERTIFIED AND NONCERTIFIED DEPUTY SHERIFFS AS DESCRIBED IN SECTION
24 16-2.5-103; AND

25 (IV) COUNTY EMPLOYEES ASSIGNED TO POSITIONS IN A COUNTY
26 HUMAN OR SOCIAL SERVICES AGENCY.

27 (b) THE MINIMUM SIZE OF A BARGAINING UNIT OF COUNTY

1 EMPLOYEES IS FIFTY POSITIONS. IN DETERMINING THE POSITIONS INCLUDED
2 IN A BARGAINING UNIT TO MEET THE MINIMUM THRESHOLD, THE DIRECTOR
3 SHALL GIVE APPROPRIATE WEIGHT TO THE DESIRES OF COUNTY
4 EMPLOYEES, THE EFFECTIVENESS OF LABOR MANAGEMENT RELATIONS,
5 AND THE EFFICIENCY OF THE OPERATION OF THE COUNTY.

6 (3) THE DIRECTOR SHALL, UPON RECEIPT OF A PETITION FOR A
7 REPRESENTATION ELECTION OR PETITION FOR CERTIFICATION BASED ON
8 DEMONSTRATION OF MAJORITY SUPPORT FILED BY AN EMPLOYEE
9 ORGANIZATION, DESIGNATE THE POSITIONS IN THE APPROPRIATE
10 BARGAINING UNIT FOR COLLECTIVE BARGAINING DETERMINED PURSUANT
11 TO THIS SECTION. THE DESIGNATION MUST BE DETERMINED BY CONSENT
12 OF THE PARTIES OR BY AN ADMINISTRATIVE DETERMINATION OF THE
13 DIRECTOR.

14 **8-3.3-111. Decertification of exclusive representative.** (1) A
15 COUNTY EMPLOYEE IN A BARGAINING UNIT OR AN EMPLOYEE
16 ORGANIZATION MAY INITIATE DECERTIFICATION OF THE EMPLOYEE
17 ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE UPON SUBMISSION TO
18 THE DIRECTOR OF A SHOWING OF INTEREST DEMONSTRATING THAT THIRTY
19 PERCENT OF THE COUNTY EMPLOYEES IN THE APPROPRIATE BARGAINING
20 UNIT REQUEST DECERTIFICATION OF THE EXISTING EXCLUSIVE
21 REPRESENTATIVE OR A SHOWING OF INTEREST DEMONSTRATING THAT
22 THIRTY PERCENT OF THE COUNTY EMPLOYEES IN THE BARGAINING UNIT
23 AUTHORIZE AN EMPLOYEE ORGANIZATION OTHER THAN THE EXCLUSIVE
24 REPRESENTATIVE TO REPRESENT THEM FOR PURPOSES OF COLLECTIVE
25 BARGAINING. DECERTIFICATION ELECTIONS MUST BE HELD IN A MANNER
26 SIMILAR TO CERTIFICATION ELECTIONS, AS SPECIFIED IN RULES
27 PROMULGATED BY THE DIRECTOR, SO LONG AS AN INCUMBENT EXCLUSIVE

1 REPRESENTATIVE EMPLOYEE ORGANIZATION IS NOT REQUIRED TO FILE A
2 SHOWING OF INTEREST TO BE PLACED ON THE BALLOT.

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

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

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

21 (2) THE OBLIGATION TO COLLECTIVELY BARGAIN IN GOOD FAITH:

22 (a) REQUIRES A COUNTY, UPON REQUEST OF THE EXCLUSIVE
23 REPRESENTATIVE, TO PROVIDE INFORMATION THAT MAY BE RELEVANT TO
24 THE TERMS AND CONDITIONS OF EMPLOYMENT OR THE INTERPRETATION OF
25 THE COLLECTIVE BARGAINING AGREEMENT;

26 (b) INCLUDES A COUNTY'S DUTY TO FURNISH DATA TO THE
27 EXCLUSIVE REPRESENTATIVE THAT:

1 (I) IS NORMALLY MAINTAINED BY THE COUNTY IN THE REGULAR
2 COURSE OF BUSINESS; AND

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

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

11 (3) COLLECTIVE BARGAINING BETWEEN A SINGLE COUNTY AND AN
12 EMPLOYEE ORGANIZATION SERVING AS THE EXCLUSIVE REPRESENTATIVE
13 OF MORE THAN ONE BARGAINING UNIT OF COUNTY EMPLOYEES MUST
14 BE CONSOLIDATED UPON THE REQUEST OF THE COUNTY OR OF THE
15 EMPLOYEE ORGANIZATION.

16 **8-3.3-113. Collective bargaining agreement - arbitration.**

17 (1) AN AGREEMENT NEGOTIATED BETWEEN AN EXCLUSIVE
18 REPRESENTATIVE AND A COUNTY CONSTITUTES THE COLLECTIVE
19 BARGAINING AGREEMENT BETWEEN THE PARTIES.

20 (2) A COLLECTIVE BARGAINING AGREEMENT ENTERED INTO UNDER
21 THIS ARTICLE 3.3 MUST BE FOR A TERM OF AT LEAST TWELVE MONTHS AND
22 NOT MORE THAN SIXTY MONTHS. A COLLECTIVE BARGAINING AGREEMENT
23 REMAINS IN EFFECT UNTIL REPLACED BY A SUBSEQUENT COLLECTIVE
24 BARGAINING AGREEMENT.

25 (3) IF THERE IS AN EXISTING LAW, POLICY, ORDINANCE, OR
26 CHARTER PROVISION THAT APPLIES TO A COUNTY THAT PROVIDES
27 PROCEDURES FOR THE APPEAL OF COUNTY EMPLOYEE DISCIPLINE,

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

11 (4) (a) A COLLECTIVE BARGAINING AGREEMENT SHALL PROVIDE
12 FOR A GRIEVANCE PROCEDURE CULMINATING IN FINAL AND BINDING
13 ARBITRATION, SUBJECT TO JUDICIAL REVIEW IN ACCORDANCE WITH THIS
14 ARTICLE 3.3, TO RESOLVE DISPUTES OVER THE INTERPRETATION,
15 APPLICATION, AND ENFORCEMENT OF ANY PROVISION OF THE COLLECTIVE
16 BARGAINING AGREEMENT.

17 (b) AN EXCLUSIVE REPRESENTATIVE OR THE COUNTY MAY SEEK
18 JUDICIAL REVIEW OR CONFIRMATION OF AN ARBITRATOR'S DECISION AS
19 THE FINAL STEP IN A COLLECTIVE BARGAINING AGREEMENT GRIEVANCE
20 PROCEDURE IN A COURT OF COMPETENT JURISDICTION. THE DECISION OF
21 AN ARBITRATOR MUST BE ENFORCED, AND THE PARTIES SHALL COMPLY
22 WITH THE DECISION AND AWARD, UNLESS A COURT CONCLUDES THAT:

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

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

26 (III) THE ARBITRATOR'S DECISION AND AWARD VIOLATED PUBLIC
27 POLICY;

1 (IV) THE ARBITRATOR ENGAGED IN MANIFEST DISREGARD OF THE
2 LAW; OR

3 (V) THE ARBITRATOR DENIED THE PARTIES A FUNDAMENTALLY
4 FAIR HEARING.

5 (5) A COLLECTIVE BARGAINING AGREEMENT SHALL NOT:

6 (a) DELAY THE PROMPT INTERVIEWING OF COUNTY EMPLOYEES
7 UNDER INVESTIGATION; EXCEPT THAT A COUNTY EMPLOYEE MUST BE
8 GIVEN SUFFICIENT TIME TO HAVE THE COUNTY EMPLOYEE'S EXCLUSIVE
9 REPRESENTATIVE PRESENT AT ANY EXAMINATION IN CONNECTION WITH AN
10 INVESTIGATION IN ACCORDANCE WITH SECTION 8-3.3-103 (3);

11 (b) PERMIT A COUNTY EMPLOYEE TO USE PAID TIME FOR ANY OR
12 ALL OF A SUSPENSION WHEN THE SUSPENSION WAS PROPERLY IMPOSED FOR
13 JUST CAUSE OR WHERE A SUPERVISOR, EMPLOYER, ADMINISTRATIVE LAW
14 JUDGE, HEARING OFFICER, OR A COURT HAS FOUND A DEPRIVATION OF
15 RIGHTS UNDER THE STATE OR FEDERAL CONSTITUTION;

16 (c) PERMIT THE EXPUNGEMENT OF DISCIPLINARY RECORDS FROM
17 A COUNTY EMPLOYEE'S PERSONNEL FILE FOR SUBSTANTIATED INFRACTIONS
18 OF A COUNTY'S POLICIES REGARDING:

19 (I) PHYSICAL USE OF FORCE;

20 (II) DEADLY PHYSICAL FORCE;

21 (III) ACTIONS RESULTING IN DEATH OR SERIOUS BODILY INJURY;

22 AND

23 (IV) ACTIONS RESULTING IN A DEPRIVATION OF RIGHTS UNDER THE
24 STATE OR FEDERAL CONSTITUTION;

25 (d) IMPOSE LIMITS ON THE PERIOD OF TIME DURING WHICH A
26 COUNTY EMPLOYEE MAY BE DISCIPLINED OR AN INVESTIGATION MAY
27 OCCUR FOR INCIDENTS INVOLVING PHYSICAL FORCE, INCIDENTS OF DEADLY

1 PHYSICAL FORCE, INCIDENTS THAT RESULTED IN DEATH OR SERIOUS
2 BODILY INJURY, OR INCIDENTS ALLEGING A DEPRIVATION OF AN
3 INDIVIDUAL'S RIGHTS UNDER THE STATE OR FEDERAL CONSTITUTION.

4 (e) PLACE LIMITATIONS ON THE SUBSTANCE, METHOD FOR FILING,
5 OR SOURCE OF COMPLAINTS THAT MAY PROMPT AN INVESTIGATION INTO
6 EMPLOYEE MISCONDUCT.

7 (6) A COLLECTIVE BARGAINING AGREEMENT MUST BE CONSISTENT
8 WITH APPLICABLE STATE AND FEDERAL LAWS, INCLUDING LAWS
9 GOVERNING THE COUNTY OFFICIALS' AND COUNTY EMPLOYEES'
10 RETIREMENT PLAN OR THE COLORADO EMPLOYEE RETIREMENT SYSTEM,
11 DESCRIBED IN ARTICLE 51 OF TITLE 24, WHICHEVER IS APPLICABLE. IF ANY
12 CLAUSE IN A COLLECTIVE BARGAINING AGREEMENT IS DETERMINED TO BE
13 INVALID OR UNENFORCEABLE, THE UNENFORCEABILITY OR INVALIDITY OF
14 SUCH CLAUSE DOES NOT AFFECT THE ENFORCEABILITY OR VALIDITY OF
15 ANY OTHER CLAUSE OF THE COLLECTIVE BARGAINING AGREEMENT.

16 (7) ANY TERM OF A COLLECTIVE BARGAINING AGREEMENT
17 REQUIRING THE APPROPRIATION OF FUNDS MUST BE SUBMITTED TO THE
18 BOARD OF COUNTY COMMISSIONERS OF THE COUNTY AT THE MEETING
19 FOLLOWING NOTIFICATION BY THE EXCLUSIVE REPRESENTATIVE TO THE
20 COUNTY THAT THE BARGAINING UNIT HAS APPROVED THE AGREEMENT IN
21 ACCORDANCE WITH THE INTERNAL PROCEDURES OF THE EXCLUSIVE
22 REPRESENTATIVE.

23 **8-3.3-114. Impasse resolution - fact finding - rules.** (1) IF AN
24 IMPASSE ARISES ON ONE OR MORE ISSUES DURING THE NEGOTIATION OF A
25 COLLECTIVE BARGAINING AGREEMENT, THE EXCLUSIVE REPRESENTATIVE
26 AND THE COUNTY SHALL ENGAGE IN THE DISPUTE RESOLUTION PROCESS
27 ESTABLISHED IN THIS SECTION OR AN ALTERNATIVE PROCEDURE

1 ESTABLISHED BY MUTUAL AGREEMENT. THE DEADLINES IN THIS SECTION
2 MAY BE EXTENDED BY MUTUAL AGREEMENT OF THE PARTIES.

3 (2) (a) IF THE EXCLUSIVE REPRESENTATIVE AND THE COUNTY
4 CANNOT REACH AN AGREEMENT ON ONE OR MORE ISSUES SUBJECT TO
5 COLLECTIVE BARGAINING WITHIN NINETY CALENDAR DAYS AFTER
6 COMMENCING MEETINGS TO NEGOTIATE, OR BY THE ONE HUNDRED
7 TWENTIETH DAY PRIOR TO THE EXPIRATION OF AN EXISTING COLLECTIVE
8 BARGAINING AGREEMENT, WHICHEVER IS EARLIER, EITHER PARTY MAY
9 REQUEST THE ASSISTANCE OF A MEDIATOR. IF MEDIATION IS REQUESTED
10 BY EITHER PARTY, BARGAINING MUST CONTINUE WITH THE AID OF A
11 MEDIATOR.

12 (b) IF THE PARTIES CANNOT AGREE ON A MEDIATOR WITHIN SEVEN
13 CALENDAR DAYS FROM THE REQUEST FOR MEDIATION, THE PARTIES MUST
14 REQUEST MEDIATION ASSISTANCE FROM THE FEDERAL MEDIATION AND
15 CONCILIATION SERVICE. THE PARTIES SHALL SHARE EQUALLY THE COST OF
16 MEDIATION SERVICES, IF ANY.

17 (3) MEDIATION MUST CONTINUE FOR SIXTY DAYS, UNTIL SIXTY
18 DAYS PRIOR TO THE EXPIRATION OF THE EXISTING COLLECTIVE
19 BARGAINING AGREEMENT, OR UNTIL THE MEDIATOR DETERMINES THAT
20 MEDIATION SERVICES ARE NO LONGER NECESSARY OR EFFECTIVE,
21 WHICHEVER OCCURS FIRST. MEDIATION MAY CONTINUE THEREAFTER UPON
22 MUTUAL AGREEMENT OF THE PARTIES.

23 (4) (a) IF THE PARTIES REMAIN AT AN IMPASSE FOLLOWING
24 MEDIATION, EITHER PARTY MAY REQUEST FACT FINDING IN ACCORDANCE
25 WITH RULES PROMULGATED BY THE DIRECTOR.

26 (b) THE DIRECTOR SHALL MAINTAIN A ROSTER OF QUALIFIED FACT
27 FINDERS, EACH OF WHOM MUST BE REGISTERED WITH THE FEDERAL

1 MEDIATION AND CONCILIATION SERVICE OR THE AMERICAN ARBITRATION
2 ASSOCIATION, AND SHALL REQUIRE THE PARTIES TO SELECT A FACT FINDER
3 FROM THE DIRECTOR'S ROSTER OR FROM A ROSTER OF LABOR ARBITRATORS
4 OBTAINED DIRECTLY FROM THE FEDERAL MEDIATION AND CONCILIATION
5 SERVICE OR THE AMERICAN ARBITRATION ASSOCIATION. THE PARTIES
6 SHALL SELECT A FACT FINDER FROM A LIST OF SEVEN NAMES FROM THE
7 ROSTER, AS DESIGNATED BY THE DIRECTOR AND THE AMERICAN
8 ARBITRATION ASSOCIATION, OR ITS SUCCESSOR ORGANIZATION, OR THE
9 FEDERAL MEDIATION AND CONCILIATION SERVICE, WHICHEVER IS
10 APPLICABLE.

11 (c) UNLESS THE PARTIES OTHERWISE AGREE, THE FACT FINDER WILL
12 MAKE A RECOMMENDATION TO ACCEPT THE FINAL OFFER OF THE
13 EXCLUSIVE REPRESENTATIVE OR THE FINAL OFFER OF THE COUNTY ON EACH
14 ISSUE IN DISPUTE.

15 (d) IN ARRIVING AT A RECOMMENDATION, THE FACT FINDER SHALL
16 CONSIDER:

17 (I) THE FINANCIAL ABILITY OF THE COUNTY TO MEET THE COSTS OF
18 ANY PROPOSED SETTLEMENT;

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

20 (III) THE COMPENSATION, HOURS, AND TERMS AND CONDITIONS OF
21 EMPLOYMENT OF THE COUNTY EMPLOYEES INVOLVED IN THE COLLECTIVE
22 BARGAINING IN COMPARISON WITH THE COMPENSATION, HOURS, AND
23 TERMS AND CONDITIONS OF EMPLOYMENT OF OTHER EMPLOYEES IN THE
24 PUBLIC AND PRIVATE SECTORS IN COMPARABLE COMMUNITIES;

25 (IV) THE STIPULATIONS OF THE PARTIES;

26 (V) THE LAWFUL AUTHORITY OF THE COUNTY;

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

1 (VII) OTHER FACTORS THAT ARE NORMALLY OR TRADITIONALLY
2 TAKEN INTO CONSIDERATION IN THE DETERMINATION OF COMPENSATION,
3 HOURS, AND TERMS AND CONDITIONS OF EMPLOYMENT THROUGH
4 VOLUNTARY COLLECTIVE BARGAINING, INTEREST ARBITRATION, OR
5 OTHERWISE BETWEEN PARTIES IN PUBLIC AND PRIVATE EMPLOYMENT.

6 (e) THE PARTIES SHALL SHARE THE COST OF THE FACT FINDER
7 EQUALLY.

8 (5) THE EXCLUSIVE REPRESENTATIVE SHALL APPROVE OR REJECT
9 THE RECOMMENDATION OF THE FACT FINDER IN ACCORDANCE WITH ITS
10 INTERNAL PROCEDURES. IF THE EXCLUSIVE REPRESENTATIVE APPROVES OF
11 THE RECOMMENDATION, THE BOARD OF COUNTY COMMISSIONERS OF THE
12 COUNTY SHALL VOTE TO ACCEPT OR REJECT THE RECOMMENDATION AT A
13 REGULAR OR SPECIAL MEETING OPEN TO THE PUBLIC IMMEDIATELY
14 FOLLOWING NOTIFICATION BY THE EXCLUSIVE REPRESENTATIVE THAT THE
15 BARGAINING UNIT HAS ACCEPTED THE RECOMMENDATION.

16 (6) (a) EXCEPT FOR THE PARTIES IDENTIFIED IN SUBSECTION (6)(b)
17 OF THIS SECTION, IF THE PARTIES ARE AT AN IMPASSE FOLLOWING
18 CONSIDERATION OF THE RECOMMENDATIONS OF THE FACT FINDER, EACH
19 PARTY REMAINS OBLIGATED TO COLLECTIVELY BARGAIN IN GOOD FAITH TO
20 RESOLVE THE IMPASSE.

21 (b) BARGAINING UNITS OF A LOCAL GOVERNMENT EMPLOYER THAT
22 INCLUDE FIREFIGHTERS, AS DEFINED IN SECTION 29-5-301 (2), MUST
23 COMPLY WITH POST-FACT-FINDING PROCEDURES IN SECTION 29-5-210 (9),
24 (10), AND (13).

25 (7) EXCEPT FOR THE RECOMMENDATION OF A FACT FINDER, ALL
26 DOCUMENTS, PROPOSALS, AND DRAFT AND TENTATIVE AGREEMENTS
27 DRAFTED OR EXCHANGED PURSUANT TO THE PROCESS ESTABLISHED IN THIS

1 SECTION ARE PRIVILEGED, ARE NOT PUBLIC RECORDS, AND ARE NOT
2 SUBJECT TO INSPECTION PURSUANT TO THE "COLORADO OPEN RECORDS
3 ACT", PART 2 OF ARTICLE 72 OF TITLE 24.

4 **8-3.3-115. Unfair labor practices.** (1) A COUNTY OR EXCLUSIVE
5 REPRESENTATIVE SHALL NOT REFUSE TO NEGOTIATE IN GOOD FAITH WITH
6 RESPECT TO WAGES, HOURS, AND OTHER TERMS AND CONDITIONS OF
7 EMPLOYMENT, INCLUDING REFUSING TO COOPERATE IN ANY IMPASSE
8 RESOLUTION PROCEDURE.

9 (2) A COUNTY, ITS REPRESENTATIVES, ITS AGENTS, OR ANYONE
10 ACTING ON BEHALF OF THE COUNTY SHALL NOT:

11 (a) DISCRIMINATE AGAINST, COERCE, INTIMIDATE, INTERFERE WITH,
12 OR IMPOSE REPRISALS AGAINST, OR THREATEN TO DISCRIMINATE AGAINST,
13 COERCE, INTIMIDATE, INTERFERE WITH, OR IMPOSE REPRISALS AGAINST,
14 ANY COUNTY EMPLOYEE FOR FORMING OR ASSISTING AN EMPLOYEE
15 ORGANIZATION OR EXPRESSING THE COUNTY EMPLOYEE'S VIEWS
16 REGARDING COUNTY EMPLOYEE REPRESENTATION OR WORKPLACE ISSUES
17 OR THE RIGHTS GRANTED TO THE COUNTY EMPLOYEE IN THIS ARTICLE 3.3;

18 (b) DETER OR DISCOURAGE COUNTY EMPLOYEES OR COUNTY
19 EMPLOYEE APPLICANTS FROM BECOMING OR REMAINING MEMBERS OF AN
20 EMPLOYEE ORGANIZATION OR FROM AUTHORIZING PAYROLL DEDUCTIONS
21 FOR DUES OR FEES TO AN EMPLOYEE ORGANIZATION;

22 (c) USE ANY PUBLIC FUNDS OR OFFICIAL POSITION TO SUPPORT OR
23 OPPOSE AN EMPLOYEE ORGANIZATION; EXCEPT THAT THE PROVISION OF
24 ROUTINE SERVICES AND FACILITIES AND PAID TIME FOR EXCLUSIVE
25 REPRESENTATIVES MAY BE PROVIDED BY A COUNTY PURSUANT TO A
26 COLLECTIVE BARGAINING AGREEMENT BETWEEN THE COUNTY AND AN
27 EXCLUSIVE REPRESENTATIVE;

1 (d) DOMINATE OR INTERFERE IN THE ADMINISTRATION OF AN
2 EMPLOYEE ORGANIZATION;

3 (e) DISCHARGE OR DISCRIMINATE AGAINST A COUNTY EMPLOYEE
4 BECAUSE THE COUNTY EMPLOYEE HAS FILED AN AFFIDAVIT, PETITION, OR
5 COMPLAINT OR GIVEN ANY INFORMATION OR TESTIMONY PURSUANT TO
6 THIS ARTICLE 3.3 OR A COLLECTIVE BARGAINING AGREEMENT OR CHOSEN
7 TO BE REPRESENTED BY AN EXCLUSIVE REPRESENTATIVE;

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

10 (g) COLLECTIVELY BARGAIN IN REGARD TO MATTERS COVERED BY
11 THIS ARTICLE 3.3 WITH A COUNTY EMPLOYEE OR GROUP OF COUNTY
12 EMPLOYEES IN THE BARGAINING UNIT OR AN EMPLOYEE ORGANIZATION
13 PURPORTEDLY REPRESENTING THE COUNTY EMPLOYEES IN A BARGAINING
14 UNIT OTHER THAN THE EXCLUSIVE REPRESENTATIVE;

15 (h) DISCLOSE TO A PRIVATE ENTITY, OTHER THAN THE EXCLUSIVE
16 REPRESENTATIVE, PERSONALLY IDENTIFIABLE INFORMATION ABOUT
17 COUNTY EMPLOYEES WITHIN THE BARGAINING UNIT THAT IS EXEMPT FROM
18 DISCLOSURE PURSUANT TO LAW; OR

19 (i) OTHERWISE FAIL TO COMPLY WITH THE REQUIREMENTS OF THIS
20 ARTICLE 3.3.

21 (3) (a) AN EMPLOYEE ORGANIZATION OR EXCLUSIVE
22 REPRESENTATIVE SHALL NOT:

23 (I) INTERFERE WITH, RESTRAIN, OR COERCE A COUNTY EMPLOYEE
24 WITH RESPECT TO THE RIGHTS GRANTED IN THIS ARTICLE 3.3 OR WITH
25 RESPECT TO SELECTING AN EXCLUSIVE REPRESENTATIVE;

26 (II) WILLFULLY OR DELIBERATELY FAIL TO FAIRLY REPRESENT A
27 COUNTY EMPLOYEE WHO IS IN A BARGAINING UNIT EXCLUSIVELY

1 REPRESENTED BY THE EMPLOYEE ORGANIZATION IN THE NEGOTIATION OR
2 ENFORCEMENT OF THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT;
3 OR

4 (III) OTHERWISE FAIL TO COMPLY WITH THE REQUIREMENTS OF
5 THIS ARTICLE 3.3.

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

10 (4) AN AGGRIEVED PARTY IS BARRED FROM FILING A CLAIM THAT
11 ALLEGES THAT EITHER THE COUNTY OR EMPLOYEE ORGANIZATION HAS
12 VIOLATED THIS SECTION UNLESS THE CLAIM IS FILED WITHIN SIX MONTHS
13 AFTER THE DATE ON WHICH THE AGGRIEVED PARTY KNEW OR REASONABLY
14 SHOULD HAVE KNOWN OF THE ALLEGED VIOLATION.

15 (5) THE EXPRESSION OF ANY PERSONAL VIEW, ARGUMENT, OR
16 OPINION BY AN ELECTED OFFICIAL MUST NOT BE CONSIDERED A VIOLATION
17 OF THIS SECTION UNLESS THE EXPRESSION CONTAINS A THREAT OF
18 REPRISAL OR PROMISE OF A BENEFIT OR IS MADE UNDER COERCIVE
19 CONDITIONS. REPRESENTATIVES OF COUNTIES MAY CORRECT THE RECORD
20 WITH RESPECT TO ANY FALSE OR MISLEADING STATEMENT MADE BY ANY
21 PERSON, PUBLICIZE THE FACT OF A REPRESENTATION ELECTION, AND
22 ENCOURAGE COUNTY EMPLOYEES TO EXERCISE THEIR RIGHT TO VOTE IN
23 THE ELECTION.

24 (6) (a) AN EXCLUSIVE REPRESENTATIVE CERTIFIED OR DEEMED
25 CERTIFIED IN ACCORDANCE WITH THIS ARTICLE 3.3 SHALL NOT THREATEN,
26 FACILITATE, SUPPORT, OR CAUSE A COUNTY EMPLOYEE TO PARTICIPATE IN
27 THE FOLLOWING:

- 1 (I) A STRIKE;
2 (II) A WORK STOPPAGE;
3 (III) A WORK SLOWDOWN;
4 (IV) A GROUP SICK OUT; OR
5 (V) AN ACTION THAT DISRUPTS, ON A WIDESPREAD BASIS, THE
6 DAY-TO-DAY FUNCTIONING OF A COUNTY.

7 (b) A CONTROVERSY CONCERNING AN ACTIVITY PROHIBITED BY
8 SUBSECTION (6)(a) OF THIS SECTION MAY BE SUBMITTED TO THE DIVISION
9 PURSUANT TO SECTION 8-3.3-106. UPON A FINDING THAT THE EXCLUSIVE
10 REPRESENTATIVE HAS VIOLATED SUBSECTION (6)(a) OF THIS SECTION, THE
11 DIRECTOR SHALL AWARD ANY APPROPRIATE RELIEF, INCLUDING
12 SANCTIONS, FINES, OR DECERTIFICATION. IF AN EXCLUSIVE
13 REPRESENTATIVE IS DECERTIFIED BY THE DIRECTOR, THE EMPLOYEE
14 ORGANIZATION MAY BEGIN THE CERTIFICATION PROCESS IN SECTION
15 8-3.3-108 AFTER ONE YEAR FROM THE DATE OF DECERTIFICATION.

16 (c) NOTHING IN THIS SUBSECTION (6) PROHIBITS THE EXCLUSIVE
17 REPRESENTATIVE FROM ENGAGING IN OTHER CONCERTED ACTIVITIES FOR
18 THE PURPOSE OF THE COLLECTIVE BARGAINING PROCESS OR OTHER
19 MUTUAL AID OR PROTECTION, WITHOUT INTERFERENCE, RESTRAINT, OR
20 COERCION BY THE COUNTY.

21 (d) NOTHING IN THIS SECTION AFFECTS THE RIGHTS OF ANY COUNTY
22 EMPLOYEE OR EMPLOYEE ORGANIZATION NOT COVERED BY THE EXPRESS
23 TERMS OF THIS ARTICLE 3.3.

24 **8-3.3-116. Existing bargaining relationships.** AN EXCLUSIVE
25 REPRESENTATIVE DEEMED CERTIFIED PURSUANT TO THIS ARTICLE 3.3 HAS
26 THE RIGHT TO COLLECTIVELY BARGAIN MATTERS NOT COVERED BY AN
27 EXISTING COLLECTIVE BARGAINING AGREEMENT NEGOTIATED PRIOR TO

1 THE EFFECTIVE DATE OF THIS ARTICLE 3.3 IF THE SUBJECTS PROPOSED FOR
2 BARGAINING WERE OUTSIDE OF THE LAWFUL SCOPE OF BARGAINING PRIOR
3 TO THE EFFECTIVE DATE OF THIS ARTICLE 3.3.

4 **SECTION 3. Effective date.** This act takes effect January 31,
5 2023.

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