



SOUTHWEST REGIONAL COUNCIL OF CARPENTERS

Representing Carpenters in Southern California, Nevada, Arizona, Utah, New Mexico, and Colorado

Pete Rodriguez
President/COO

Dan Langford
Executive Secretary-Treasurer/CEO

Frank Hawk
Vice President/COO

May 18, 2020

Mr. Joseph M. Barela
Executive Director
Colorado Department of Labor and Employment
633 17th St #201,
Denver, CO 80202

Dear Director Barela,

On behalf of more than 1,800 Colorado members of the Southwest Regional Council of Carpenters (SWRCC), I write in support of the Colorado Department of Employment's (CDLE) proposed rules defining joint employment in both the Colorado Overtime and Minimum Pay Standards Order #36 Rules, 7 CCR 1103-1 and Wage Protection Act Rules, 7 CCR 1103-7.

Throughout Colorado we have seen a proliferation of labor brokers whose model is to exploit and traffic workers, cutting corners in the name of profit. Unfortunately, this is not a new problem, as the system that is currently in place has not been protecting workers for decades. Heretofore, the definition of joint employment has enabled some employers to shield themselves from accountability through layers of contractors, subcontractors and ultimately labor brokers. Rather than the responsibility falling to the larger, deeper pocketed employers, the law as it stands puts the onus their often undercapitalized and often transient labor brokers who focus only on short term gain. The new proposed definition will more effectively share this employer responsibility and remove doubt that lead contractors are employers.

Too often in our industry we see workers taken advantage of by employers only to find themselves with little to no recourse to hold those employers accountable. Unfortunately, the federal government recently swung the pendulum to further favor employers when the U.S. Department of Labor narrowed the joint employment standard under the Fair Labor Standards Act earlier this year. This makes the proposed rules all the more critical and timely for workers across the state.

While the proposed rules would surely put workers in Colorado in a better position, we also want to be sure to emphasize the ensuing need to enforce these rules to truly make them effective. SWRCC was intimately involved in the passage of HB19-1267 and we are glad to see the definitions of employers and employees from that legislation being incorporated into the proposed rules. However, what made that piece of legislation even more significant was the emphasis on, and resourcing of, enforcement for CDLE. Similarly, enforcement of the

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new joint employment definition absolutely needs to be part of the steps taken by the Department. Revising the standard is not sufficient.

Increasing reliance on labor brokers as well as the proliferation of temp agencies and other similar models is not unique to the construction industry. In fact, with the new federal guidelines on joint employment incentivizing these models and decreasing accountability for wage theft, estimates pin losses to workers at over \$1 billion per year across the country.¹ With these proposed rules, Colorado has the opportunity to demonstrate a different way. The CDLE is making a strong statement in support of workers and the state economy in a time when such action is critical. We look forward to working with the CDLE in ensuring that the new rules are enforced protecting workers throughout the state.

Sincerely,

Mark Thompson
President, Local 555
Southwest Regional Council of Carpenters

cc: Scott Moss, Director, Division of Labor Standards and Statistics, Colorado Department of Labor & Employment

Jared Polis, Governor of Colorado

¹ McNicholas, C and Shierholz, H. (2019). EPI comments regarding the Department of Labor's proposed joint-employer standard. https://www.epi.org/publication/epi-comments-regarding-the-department-of-labors-proposed-joint-employer-standard/#_ref2

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