COBCA & Labor Relations Rules Public Hearing

Date of Hearing: April 18, 2023

Appearances: Scott Moss, Division of Labor Standards & Statistics Director

Michael Primo, Director of Operations & Rulemaking Coordinator

Kristina Rosett, Managing Policy Advisor

Joann Long, Program Manager for Labor Relations and PESS

Dean Conder, Compliance Investigator and Senior Advisor for Labor Relations

Emilyn Winkelmeyer, Policy Advisor

Raja Raguunath, Administrative Law Judge

Elizabeth Funk, Labor Standards Director

Recorded digitally and transcribed by Ditto Transcripts.
THE HEARING OFFICER: Okay. The recording has begun. Director Moss, you may begin the hearing.

MR. SCOTT MOSS: All right. Thank you for coming. Good afternoon. I'm Scott Moss, Director of the Division of Labor Standards & Statistics in the Colorado Department of Labor and Employment. Time is 3:01 p.m. on Tuesday, April 18th, 2023. This is a public rulemaking hearing held by this Division with participants listening and speaking on the internet and/or by phone. A recording of this hearing will be added to the administrative record for this ruling process.

Thank you all for joining us. With me in this hearing from the Division are Mike Primo, the Division's Director of Operations and Rulemaking Coordinator, Kristina Rosett, Managing Policy Advisor, Joann Long, Program Manager for Labor Relations and PESS, Dean Conder, Compliance Investigator and Senior Advisor for Labor Relations, Emlyn Winkelmeyer, Policy Advisor, Raja Ragunath, Administrative Law Judge, and Elizabeth Funk, Labor Standards Director.

Today we'll accept testimony for the two proposed sets of rules of March 15th, 2023. First, the Labor Peace and Industrial Relations Rules, the LPIR Rules, 7 CCR 1101-1. The purpose of these rules is to amend what was
formally known as the Rules of Procedure to the Colorado Labor Peace Act and Industrial Relations Act and what is now the Labor Peace and Industrial Relations Rules to simplify the title for ease of reference.

The next set of rules is the County Collective Bargaining Rules or the COBCA Rules for the Collective Bargaining for Counties Act, 7 CCR 1103-16. This is a new ruleset implementing the requirements of the Collective Bargaining by County Employees Act, COBCA, enacted May 27th, 2022, and effective January 1st, 2023, but with the substantive revisions taking effect with July 1st, 2023. This was the law enacted last legislative session as SB22-230. COBCA requires us to engage in rulemaking to create a regulatory framework for labor relations and collective bargaining and company matters for counties and county employees in Colorado.

Anyone may speak on any one or more of these rules or rulesets in any order. We will not be taking testimony on other labor law and policy topics that are not part of these particular proposed rules.

For all rules from this Division, the Notice of Public Hearing and the associated rulemaking documents were filed with the Secretary of State for publication on their website and in the state register as provided by the Colorado Administrative Procedure Act. The Division then
posted all rulemaking documents on our website and publicized them to our contact list of several hundred stakeholders though in reality to thousands of stakeholders because our stakeholder list is a mix of individuals and organizations whose members have expressed interest in Division rules or are known to the Division to be interested in such rules.

For more information on any of these proposed rules from this Division, visit the Division's rulemaking page cdle.colorado.gov/laborrules. That's one word, labor rules. Again, cdle.colorado.gov/laborrules.

Before we begin, a few rules and guidelines for the record. In this hearing the Division is accepting oral testimony as well as written comments through the chat window available to anyone joining by internet. The same administrative record will include all verbal testimony, all comments in the chat window and all written comments submitted outside before or after this hearing.

All testimony and comments are reviewed by myself and the same Division officials, so while you're free to comment or testify by any means you prefer, there's no need to repeat points in multiple forms of testimony and comment submission.

Written comments may be submitted in various ways. You can email them to Michael Primo. You can submit
them through the form on our website, again
cdle.colorado.gov/laborrules, or if they're short, you can
just type them in the chat window in this Google Meet where
they will be saved the same as other comments. The written
comment deadline for these rules is Friday, April 28th,
2023, 10 days from now, at 12:00 p.m. Noon Mountain time.

This hearing is for comments related to these
proposed rules. If instead you have individualized
questions you'd like answers to, we'd be happy to respond
outside this hearing. Email questions to Mike Primo at
Michael.primo@state.co.us. That's a email address you'll
see on your screen and in the chat window so that he can
route to the right person to give you an individualized
answer.

We do anticipate that the time available for
today's hearing will be enough to hear all testimony on all
proposed rules. Normally public rulemaking hearings have a
start time and whenever it's done, testimony is done or the
close of business. We are attempting to accommodate
everyone who wishes to speak, so we will be here until
everyone has been given the opportunity to speak, whether
that takes half hour, one hour, two hours or longer.

Second, on the off chance that more time is
needed or if we have technical difficulties, this hearing
may be continued to another date which we'll announce at
the end of today's hearing with the details posted on our webpage by 12:00 p.m. tomorrow.

Thank you again for taking the time to attend this public hearing and to participate in our rulemaking process. We'll now receive oral testimony. We'll start with those who signed up to testify in advance starting with those who are here by computer, then here by phone. Then we'll invite testimony from those who did not sign up in advance starting with those here by computer, then those here by phone.

Before we begin, a few instructions for participants. First, please keep your computer or phone on mute. If you're testifying, still keep your phone on mute until we are calling your name. For those speaking, when we call on you please do the following. First, please unmute yourself. Then when we remind you that you forgot to unmute yourself, please unmute yourself.

Second, please state your full name, job and role and whether you're speaking for any organization. If you wish to remain anonymous however, that is your right under Wage Protection Rule 4.7. You can instead just say your first name or a pseudonym, a fake name or describe as much as you are comfortable as to your role or the experience you're here to testify about. And you can go off video as part of remaining anonymous if you wish.
Third, when you start speaking, say which rule or ruleset you'll discuss. If you're speaking about a particular proposed rule, speak to that number if possible. Again, you can speak to any matter you want related to the rules. So if you don't have a specific rule or rule number in mind, you can just speak generally.

Fourth, remember testimony is limited to five minutes per speaker. Some of you may have more input on these rules than five minutes of speaking can cover. That's why we're soliciting written comments for the past few months, including long before the rulemaking was formally proposed, and comments will continue until again 12:00 p.m. Friday, April 28th, a week from this coming Friday. So if you have more to say than you can cover in five minutes of speaking, you can submit the rest as a comment by emailing it or submitting it through our Google form on our webpage.

Fifth, please speak in a clear, slow voice. We may interrupt to ask you to repeat anything we think may not have been heard or if the audio was garbled or that we think otherwise might not be audible or bear repeating. After you finish speaking, we may ask follow-up questions. When you finish please mute yourself again.

If you'd like to give your name and information for the record, whether you testify or not, or if you're
not on a Division's stakeholder list to receive notices of proposed rules or of other Division publications and you'd like to be added to our list, you can email Michael Primo again at Michael.primo@state.co.us after the hearing or fill out any of our RSVP forms on the rules page or enter your information in the comment window. And again, I'll just reiterate, our rules page with all these information and links are cdle.colorado.gov/laborrules.

Thank you for your interest in and your participation in these important matters of Colorado labor law and policy.

Mike, are there further instructions to read beyond what I've covered?

MR. MICHAEL PRIMO: No. I posted the instructions, Director Moss, on the -- as a presenter so all individuals can read along with it. I would just reiterate that if you are planning to speak and you're here by computer, you would hit control D to unmute yourself. If you're by phone, you would hit star six on your phone.

Preferably since it's a larger forum, if you would like to speak, if you could throw your name in the chat window and I'll call on you in the order in which they are presented in the chat window. If we don't have anybody in the chat window wanting to speak, I'll open the floor up for individuals to just either raise their hand to speak or
simply unmuting themselves. Once we've gone through everybody here virtually, we will then open it up for anybody here calling in to unmute themselves and speak.

So with that in mind, if anybody would like to throw their name to be the first speaker in the chat window, please do so now. Okay. Eric Butler, brave soul, wants to go first. Eric, if you would unmute yourself, control D.

MR. ERIC BUTLER: Hopefully I'm unmuted.

MR. PRIMO: You are.

MR. BUTLER: So I'm Eric Butler. I'm a Deputy Jefferson County Attorney, and I wanted to on behalf of Jefferson County and also other interested counties give a couple of comments on COBCA. First, I want to talk about (unintelligible - 0:10:40) rights under 4.4.5. And second, the method of service or notice to counties under Proposed Rule 3.2.

4.4.5 says that the director's decision on a bargaining unit is final and conclusive and not appealable, but my understanding from the statement of basis is that the Division isn't intending to cut off all appellate rights with that language. If that's the case though, I think the wording of this remains to be changed a bit. When there's words like "final" and "conclusive" and "not appealable" appear to eliminate the rights of all
interested parties, so both employer and employee organizations to appeal that.

We understand the Division is placing an emphasis on moving these petitions along efficiently. We appreciate that. We also appreciate that ultimately that decision is going to be a largely factual decision and the Division's going to get clearer error review on it. What we would propose though is something along the lines of language that states that that decision as to the scope of the bargaining unit is not a final agency decision and is appealable after the election results are certified pursuant to the Proposed Rule 6.1. That would more clearly I think preserve the rights to appeal at a later time.

Second, the service issue, 3.2, we are concerned as counties about receiving timely notice and being able to effectuate the direction of the state promptly. Counties get notices from the state in a variety of contexts. In other contexts, these go a lot of different places. They might go to HR. They might be mailed to the Board of County Commissioners. They might go to a Division director or an elected official. We've even had official notices uploaded onto our citizen comment portal from the state.

All of these things can create delay in our ability to respond and the person who gets the notice doesn't even necessarily know what to do with it or who it
should go to. Given again the Division's emphasis on prompt action here, what we would suggest is a process that requires at least counties to register a contact to receive notices from the state to be served in applicable proceedings. We believe that will help minimize delays.

As an example, CRS 24-32-116 requires that local governments designate an agent to receive notices of claim, and the Department of Local Affairs maintains that list and it's available online as interested parties. So following that sort of process or a similar process would allow everyone, especially the state but everyone to know exactly who to send a notice to and allow us to more promptly do whatever it is we need to do. In particular, one of the first things as counties we may have to do is send out a notice to county employees after a petition is received by the state. And that's Rule 4.1.4 I believe. I suggest that perhaps even that rule itself can refer back to whatever process was instituted in 3.2.

Bottom line though, a set registry and a known person who knows to expect to see these notices from the state would be very helpful to us.

MR. MOSS: Thank you, Mr. Butler. Appreciate those suggestions.

MR. PRIMO: Thank you. And any follow-up from you, Scott or anybody else to Eric? No. Okay. Olivia
Lucas, you are the next in line to speak if you would unmute yourself, control D.

MS. OLIVIA LUCAS: Okay. Can you hear me?

MR. PRIMO: Perfect. Yes.

MS. LUCAS: Okay. Excellent. Hello, everybody. I'm Olivia Lucas. I'm a Senior Assistant County Attorney with Boulder County, and I'll also be speaking on the COBCA Rules today. Boulder County has been working with other counties. We've tried to consolidate our thoughts on these rules and present them in bits and pieces here at this hearing, and so I'll be speaking today. I have a couple questions on clarification for two parts of the rules related to appeals. And so just going in order as they appear in the rules, I'll start with Rule 5. That's the appeals related to a Division determination under the unfair -- determination, sorry, of an unfair labor practice complaint.

In its April 13th, 2023, statement of basis and purpose, the Division notes that under Rule 5 that rules are trying to follow the administrative procedures for unfair labor practice complaints and appeals set forth in the State Labor Relations Rules and the Labor Peace Act and Industrial Relations, the LPIR Rules. But it appears on reading that the COBCA Rules diverge from those other sets of rules in a way that's somewhat confusing, at least in
terminology and not certain on intent either.

And what I mean specifically is that the COBCA Rules characterize the hearing after the Division determination on an unfair labor practice complaint they determine that they sort of characterize that as an appeal of that Division determination. And that's actually in contrast as I read them of the LPIR Rules which allow for a hearing on the Division's determination if the parties request it. Otherwise, the determination becomes final agency action.

And it looked like to me that characterizing the hearing as an appeal in the COBCA context it was confusing because the rules go on to describe sort of practices that are normally perceived as what would happen at an initial hearing and not as an appeal of a decision on the record. For example, Rule 5.4.4 allows the hearing officer to subpoena documents and other records deemed necessary as evidence, and Rule 5.4.6 allows new testimonial evidence and new nontestimonial evidence for good cause again at this appeal hearing. Then 5.4.2 states that the hearing officer will review finding of facts for clear error and finding of law de novo. That part indicates that the hearing officer is going to review the Division's investigation and determination but allowing new facts in and new testimony seems to fuzzy at best the appellate
review nature of the hearing and really positions the appeal as a new hearing on the totality of the complaint. So we suggest more closely following the LPIR Rules related to investigations and hearings just for clarity or if the intent is that the hearing officer will review just the record of the Division's determination for error, sort of more like what you consider a traditional appellate approach, then we suggest that the rules reflect that. For example, they could instruct the hearing officer if there is a party requests new evidence, they could instruct the hearing officer to send the question back to the Division to consider the new evidence before going to appeal.

And then the next rule I'd like to ask about is Rule 6 which Eric talked about a little bit, discussing judicial review. Two subparts to that. First, we're seeking clarity on the reference to CRS 24-50-1115 at the end of the rule and that statute relates to the State Employee Act. And so just curious as to what the intent there was and how those two would meld.

And then also at the beginning of that Rule 6.1 there's the phrase "unless otherwise stated", then it goes on "a decision by the director," etcetera, "constitutes a final agency action." And sort of like Mr. Butler mentioned, there's not a -- that we could see a statement
otherwise in the rules about something not being a final agency action. So I think this sort of goes with his proposal that things like the determination of the appropriate bargaining unit could be identified as that in itself not a final agency action but what is a final agency action because there are statements elsewhere in the rules about decisions that aren't appealable but nowhere that we saw were stated that they're not final agency actions. So we would seek clarity around that.

And those are my comments. Thank you.

MR. MOSS: Thank you, Ms. Lucas. Appreciate the points and suggestions.

MR. PRIMO: Yes. Thank you, Olivia. David, you are up if you can unmute yourself by hitting control D.

MR. DAVID AYRAUD: I can. Hopefully you can hear me now.

MR. PRIMO: I can hear you perfectly. Thank you, David.

MR. AYRAUD: Thank you. My name is David Ayraud. I'm the Deputy County Attorney for Larimer County. As you heard from both Eric Butler and Olivia Lucas, we've been working with sort of a group of counties, so I am yet just the third bringing information to you from this meeting of us. What I will do is just address two Rules, 4.4 and 4.6. 4.4 actually sort of blends in with some of the issues that
both Mr. Butler and Ms. Lucas brought up, so I'll start with that one.

In particular, 4.4.1 -- well 4.4 discusses the appropriate bargaining unit disputes, and there aren't a lot of details of how that process goes forward. And so we would ask for some clarification regarding that. First, it references if there's a disagreement over the determination of the appropriate bargaining unit. Our understanding is that once there's a determination, there's a determination, but this is really the process of if there's a question or a dispute prior to that determination. That may be semantics, but we think it's important to just clarify that this is the process for when there is a disagreement over what the appropriate bargaining unit is or should be, not the determination of it because no determination has been made yet.

Second, in 4.4 there really aren't any timeframes for how this process would work, and we totally understand this is the first time that the Division is going through it. It's the first time all of us are really going through it. But we would ask for some sort of clarification of default processes. For example, we'd suggest once the director requires notice be sent out under 4.1.4 that there be 15 days after that distribution so that people can proceed with that dispute.
We'd also ask about is there a process such as briefs, timeframes. Will replies be allowed? We recognize the Division's going to need to have some flexibility to sort of change those, and so if the rule allows the Division to modify those as appropriate, it will still give us some default to what to expect and how to proceed at that point. So realizing that this is sort of a out-of-the-shoot situation, we would still really appreciate the Division putting some defaults in place, even if you give yourselves some flexibility afterwards.

Rule 4.4.2 talks about in the event of an intervenor-initiated dispute regarding the positions to be included in the appropriate bargaining unit. Our understanding is this would be applicable for any dispute, so we would suggest removing an intervenor-initiated and it just say in the event of a dispute regarding the positions to be included. And that would allow the bargaining unit or proposed bargaining unit, the employer, whomever is interested to be able to bring that forward to the Division.

The other rule was 4.6. 4.6, it has a similar theme as to the 4.4 discussion and that is that there are no parameters in place. There's no defaults. And that is particularly concerning given that the employee organizations, the counties, the employees themselves and
even the Division, this will be their first time dealing
with this, so we don't really have any idea of what to
prepare for and the rules aren't really clarifying any of
that. It's just currently saying within 10 days of a
determination of a sufficient showing of interest. Then
the Division will issue timeframes, procedures all of
these.

We recognize that the Division needs to have some
flexibility, and there may be some authority in there that
says hey you can modify this at the pre-election conference
which is when you're proposing to make all of the rules up
right now. But to have some default in place would be
really important for everyone involved because right now
we're all going to walk into it blind and have no idea what
to expect, how fast we're going to have to do it.

So if there could be some defaults regarding the
time that an election is expected or anticipated to occur,
establishing whether or not that would be conducted over
one, two or three days to account for employee schedules,
clarifying in person, mail in, no proxies, what election
materials are allowed, what the requirements for cleanup.
Totally understand the Division may need to modify that
based on what the situation is, but it gives everybody some
default to know what we're all walking into together so
that we can make suggestions to the Division at the
preelection conference.

There was a request from a number of counties --
and it seems rather appropriate -- is there is a lot of
information that employees are given upfront to be able to
make this decision, but there was a comment I believe that
was made at the very beginning on is there a disclosure of
the dues that would be expected of the employees if there
was a bargaining unit established and that is devoid from
the rules. So we really think it's fair for the employees
to have all the information so that they know what it is
they're voting on in all facets including from their
financial side. Counties are obligated to do so when they
put tax measures on the ballot. Seems equally fair that
the employees have this information when they're going to
make a decision as well.

And the last one is 4.6.4 which is about
electioneering. There isn't really a definition of
electioneering. I don't know if it would be consistent --
I mean county employees, because we run a lot of elections,
are probably more familiar with the electioneering
definitions and rules for elections, so that may be the
most helpful. 1-45-103(9) gives a definition for
electioneering. It also sets the distance at 100 feet. It
just seems like there could be some consistency so that
people are much more familiar with this election as it
compares to other elections that they're familiar with at a county level. So those would be some requests for clarification in 4.6.

MR. MOSS: Thank you very much for the suggestions and input, Mr. Ayraud.

MR. PRIMO: Yes. Thank you, David. Okay.

Moving on, Jessica Campbell-Swanson, you are listed to speak. If you would like to hit control D on your computer. That muted you.

MS. JESSICA CAMPBELL-SWANSON: I had already unmuted.

MR. PRIMO: Yes. I can hear you. Thank you.

MS. CAMPBELL-SWANSON: Okay. Hi. Thank you. And nice to see you, Mr. Moss. Thank you all for having us here. I am Jessica Campbell-Swanson. I am here to speak on Collective Bargaining for County Employees Act. I am a County Commissioner in Arapahoe County. I'm also a former union member for the Political Workers Guild affiliated with the Communication Workers of America and an attorney with a background in election law. So my comments are here coming mostly from on behalf of the county but are informed and my prospective is here informed by the other experiences that I've had. I want to thank CDLE for the opportunity to provide comments.

And the experiences that I have are informed by a
need for clear procedures and to ensure all individuals have an understanding of the process. And being informed by the election law experience, that's really kind of how we were -- as we've had discussions as a county and then as a board and how I've looked at these and where my comments largely will go. We appreciate the efforts to establish a comprehensive set of regulations but do believe there are additional provisions necessary prior to the adoption of the final rules that would benefit all parties with additional clarity that would also supply predictability. And I think that's what we've heard a lot of comments going to already, and ours is similar to that.

So we will be providing commentary in writing as well, and my comments will be focused on three themes. So additional details regarding process and requirements, clarifying the role of director and need for further definition of key terms.

So in additional processes and requirement details, the final rules we're hoping will outline the procedures for the conduct of representation elections beyond what the statutory language that seems to be incorporated into these draft rules currently has in Rule 4.6. I think it's very important to avoid any ambiguity about the process.

Knowing similar to what previous speakers have
said, we are kind of -- we're all going into this for the first time, so if there is flexibility for different sizes or whatever, I mean I think I'm not -- we don't want to be overly stringent so as to be too much of a burden. We really do feel like clarity around these rules will provide predictability for all parties participating. So at a minimum, we hope that proposed rules provide a general timeline of significant events and occurrences common to all representation elections and minimum or default procedures for the conduct of those elections in the absence of agreement between the parties.

There should be minimum standards for the conduct of mailed ballot elections as well to ensure election integrity and process and predictability and ensure the parties of a fair and impartial election. The current proposed rules do not contain these minimum standards and simply assert that the procedures will be established later. We would like them lined up ahead of time. I don't know the case-by-case basis would necessarily provide for that fairness and predictability.

I mean we know that there are some counties that are more favorable to collective bargaining and some that are not. And if I were a worker in a county that was not, I would want procedures set out so I know my rights to collective bargaining and self-determination will be set
out the same as other counties that are more favorable. I
think also if I was an employee in a county that is more
favorable to collective bargaining but I personally was
not, I would want these processes to ensure that I'm not --
that things are going by plan, right. That there's not
unfair pressure on either side.

Anyway, so there are several references to
processes instructions being provided later by the director
relative to petitions, 4.1.1, a voluntary recognition,
4.1.5, and decertification, 4.3.2. And while we do
appreciate the need for some flexibility in developing
these items, we're hoping for some minimum direction and
guideposts so the parties have certainty as to the
processes that will be implemented.

And we encourage the -- we have looked at the
National Labor Relations Act as a model, and so I think two
speakers before me was talking about the LEI or the LRI,
something that has some consistency that's lined up in
processes that people are already familiar with would make
some sense.

So also no guidance or assurances for the parties
on how the Division will resolve questions concerning the
sufficiency of a showing of interest. There isn't any now.
We're looking for insight into how the Division director
will make that determination. Also in the proposed rules
they don't contain any procedural elements for parties to challenge or dispute the composition of a proposed bargaining unit or eligibility of the proposed bargaining unit members to participate in an election. Again, we're just looking for procedures. We're looking for minimum standards and clarity around that and providing standard language that is required for both election materials and the showing of interest authorization cards will reduce confusion for all parties.

So I mean back in election the science behind what goes on a ballot so that it's as clear as possible has been well tested, and even specific language is mandated on these elections. And when we're talking about bargaining units happening all over the state this is one area that I think clarity and a little mandated language would not disadvantage or advantage either party in any unfair way but would just provide clarity for those who are making a decision and reduce confusion.

Director authority, we are looking -- the rules contain a few but not very many clear limits or definitions on the director's authority. We're kind of looking for some guideposts there so we know at least factors that will go into how decision are made again for clarity and predictability.

I think several of the rules -- the conflict of
the rules in some places, they seem to conflict with each other and state law has already been noted, and our comments will speak to that. So I think clarifying that will be good. Especially Rule 4.4 and Rule 4.5 seem to maybe be in contradiction with themselves and state law. So just a note there.

And then further definition of key terms, the rules appear to contain several terms of art that are not adequately defined, so we're looking at the -- David Ayraud before me spoke about electioneering. Good cause was another term that was used in a couple places in the rules but not defined.

And we also are looking for a standard for written signatures, wanting that to be the same for both the showing of interest and the casting of actual ballots. Again, consistency, clarity, predictability in this process.

Proposed Rule 5.2.2, hoping that can be clarified to articulate limitations or circumstances in which the Division will be permitted to shorten a response deadline for unfair labor practice charges. I think it's easier to extend a deadline. It's hard to shorten a deadline, and there may be reasons for that need for timeliness, but not knowing what those are is a challenge. So some clarity around that would be helpful.
And then also we're looking for a better explanation of the appeals process set forth in Proposed Rule 5.4 to verify only the record of evidence may be considered versus allowing new testimonial and documentary evidence. And I know other speakers have spoken to that as well.

So again, thank you for allowing our participation and considering these changes in things that we've noted. I again want to just reiterate that we are looking for just clarity and predictability for -- and I am literally thinking about this from the process of being an employee to being someone who is maybe on the union side to being a commissioner as well and just wanting to make sure that we have a process that is predictable and fair so that our employees can really make clear decisions that are best for themselves and that we are -- that all parties know how to behave appropriately, and we don't get into those power tensions and all of that. And I think that's where rules really do come in handy in helping us create fair processes that are predictable and reliable for all parties involved.

So thank you very much.

MR. MOSS: Thank you, Ms. Campbell-Swanson. Appreciate the suggestions and input. I'll add that you mentioned written comments are probably coming.

MS. CAMPBELL-SWANSON: Yes, sir.
THE HEARING OFFICER: Okay. So two thoughts there. One is that as much as possible if you have specific language to suggest or options, it could be that for any rule, it could be that you have one suggestion or you could have alternative suggestions, any are okay. And I'll add that the deadline is the 28th. To the extent that as I'm sensing these may be very detailed and a number of suggestions, if they come on the 28th, that's fine. We've worked in for ourselves a cushion to read them. We're not adopting rules the next day. We have almost two weeks. But if they can come any earlier than the 28th, every day helps. But if they come on the last day, that's fine too. We will read and consider them.

MS. CAMPBELL-SWANSON: Yes. We already I think have a proposed draft, and I will make sure that we incorporate your note there of specific language or suggestions. And we will get them to you as promptly as possible, sir.

MR. MOSS: Sure. I'll also add that specific language is not -- and this is true for anybody -- required. It could be that there's some rule where you'll say this is not specific enough. Please do better, but you don't have anything specific. That is fine too. It's just that if you have specific language, we'd be happy to hear it, and it often can flesh out the sort of clarity you're
looking for, whether or not we go with that language. So thank you.

MS. CAMPBELL-SWANSON: Appreciate it. Thank you very much.

MR. MOSS: Great.

MR. PRIMO: Thank you both. Next on the list is Javier. Javier, if you're on the call, if you would hit control D on your laptop to unmute yourself.

MR. JAVIER HERES: Hi. Am I unmuted?

MR. PRIMO: Yes. Perfect.

MR. HERES: Okay. Sorry about that. Hello, everyone. This is Javier Heres and Larry Lee speaking on behalf of Mesa County to comment on the COBCA proposed rules. First and foremost, we fully endorse and join in the comments submitted by the other counties during today's hearing, particularly the comments made by Boulder, Larimer, Jefferson and Arapahoe Counties.

Moving on to our second point, we would like to incorporate by reference the December 13, 2022, letter by the county attorneys and note for the record that most of the initial issues and legal questions raised by the counties in that letter were not addressed in the proposed rules.

Lastly, we seek a clarification on the procedures that must be followed to obtain the approval of the Board
of County Commissioners after an agreement has been
negotiated. As per Section 113(1) of COBCA, the board's
approval is required. However, the COBCA proposed rules
and the Division's statement of basis and purpose do not
provide any guidance on the specific steps that must be
taken to comply with this requirement.

Those are our comments. Thank you.

MR. PRIMO: Thank you, Javier. Any follow up
from Director Moss?

MR. MOSS: No. Thank you for your comments and
input, Mr. Heres.

MR. PRIMO: With that, that is everybody that's
inputted their names onto the chat. Is there anybody here
by computer that would like to comment? You can throw your
name in the chat, raise your hand or hit control D on your
laptop and begin speaking. If you're having any technical
difficulties, you can chat me in the chat window and I can
try to walk you through. Otherwise, control D on your
laptop to unmute yourself. You can raise your hand or put
your name in the chat window if you'd like to speak.

MR. MOSS: And we will wait another minute or two
in case anyone is either struggling with the unmute buttons
or keys or in case anyone is thinking about whether to
speak following the conclusion of the past several
speakers. So we'll sit here and just wait a minute or two
to see if anyone else on reflection thinks they have anything to add or finally wins the battle with the mute button.

MR. PRIMO: Well with that, we'll also ask is there anybody here by phone that would like to speak? You can hit star six on your phone to unmute yourself. If you're here by laptop or by computer, you can put your name in the chat window, hit control D to unmute yourself or raise your hand and we will call on you. Okay. Once again, if you'd like to speak, you can hit control D on your laptop, put your name in the chat window, star six if you're by phone or raise your hand.

At this time there does not appear to be anyone else who would like to speak. Director Moss, would you like to say any final words?

MR. MOSS: No. We'll just give it another --

MR. PRIMO: Minute.

MR. MOSS: -- one more minute to see if anyone else wants to say anything starting now. We'll all be quiet and have a moment of silence while we see if anybody else wants to say anything.

And hearing no further speakers for the past roughly five minutes, we're calling an end to the hearing. The time is about to be 3:48 p.m. which we're closing testimony. We thank you all for coming and for speaking.
To reiterate again, anyone who has any further comments can submit them via the address in the comment window. For those of you here by phone, again it's cdle.colorado.gov/laborrules where labor and rules are one word combined. At that site you'll see the proposed rules, the statement of basis as well as our link to submit comments or you can email any comments to Mike Primo at the address also in the comment window. That's Michael.primo@state.co.us.

With that, the time is 3:48. I thank you all for coming, and those of you who spoke, appreciate it. We look forward to seeing any follow-up written comments. And with that, the hearing is concluded.

(Whereupon, the hearing was adjourned.)
STATE OF COLORADO
CITY AND COUNTY OF DENVER

I hereby certify that the above and foregoing constitutes a transcript of all the audible testimony taken at a hearing in Denver, Colorado, on April 18, 2023, in the COBCA & Labor Relations Rules Public Hearing, which hearing was digitally recorded by the State of Colorado and transcribed by me to the best of my ability.

Dated at Hernando, Mississippi, this 18th of May, 2023.

Michelle Eaves
Transcriptionist
Ditto Transcripts