The Labor Peace Act ("LPA")
C.R.S. § 8-3-101 et seq.

C.R.S. § 8-3-101. Short title.

This article shall be known and may be cited as the "Labor Peace Act".

C.R.S. § 8-3-102. Legislative declaration.

(1) The public policy of the state as to employment relations and collective bargaining, in the furtherance of which this article 3 is enacted, is declared to be as follows:

(a) It recognizes that there are three major interests involved, namely: That of the public, the employee, and the employer. These three interests are to a considerable extent interrelated. It is the policy of the state to protect and promote each of these interests with due regard to the situation and to the rights of the others.

(b) Industrial peace, regular and adequate income for the employee, and uninterrupted production of goods and services are promotive of all of these interests. They are largely dependent upon the maintenance of fair, friendly, and mutually satisfactory employment relations and the availability of suitable machinery for the peaceful adjustment of whatever legitimate controversies may arise. It is recognized that certain employers, including farmers and farmer cooperatives, in addition to their general employer problems, face special problems arising from perishable commodities and seasonal production which require adequate consideration. It is also recognized that whatever may be the rights of disputants with respect to each other in any controversy regarding employment relations, they should not be permitted in the conduct of their controversy to intrude directly or indirectly into the primary rights of third parties to earn a livelihood, transact business, and engage in the ordinary affairs of life by any lawful means and free from molestation, interference, intimidation, restraint, or coercion.

(c) Negotiations of terms and conditions of work should result from voluntary agreement between employer and employee. For the purpose of such negotiation, an employee has the right, if he desires, to associate with others in organizing and bargaining collectively through representatives of his own free choosing without intimidation or coercion from any source.

(d) All rights of persons to join labor organizations or unions and their rights and privileges as members of labor organizations or unions should be recognized, safeguarded, and protected. A person shall not be denied membership in a labor organization or union on account of race, creed, color, religion, sex, sexual orientation, gender identity, gender expression, marital status, disability, national origin, or ancestry or by any unfair or unjust discrimination. A labor organization or union shall neither require arbitrary or excessive initiation fees and dues nor impose excessive, unwarranted, arbitrary, or oppressive fines, penalties, or forfeitures. The members are entitled to full and detailed reports from their officers, agents, or representatives of all financial transactions and have the right to elect officers by secret ballot and to determine and vote upon the question of striking, not striking, and other questions of policy affecting the entire membership.

(e) In order to preserve and promote the interests of the public, the employee, and the employer alike, the state shall establish standards of fair conduct in employment relations and provide a convenient, expeditious, and impartial tribunal by which these interests may have their respective rights and obligations adjudicated, without limiting the jurisdiction of the courts to protect property, and to prevent and punish the commission of unlawful acts. While limiting individual and group rights of aggression and defense, the state substitutes processes of justice for the more primitive methods of trial by combat.

(f) It is declared to be the common law of the state that no act which if done by one person would constitute a crime under the common law or statutes of this state is any less a crime if committed by two or more persons or corporations acting in concert, and no act which under the common law or statutes of this state is a wrongful act for which any person has a remedy against the wrongdoer if done by one person is any less a remedial wrong if done by two or more persons or corporations in concert, nor shall the injured person be denied relief in the courts of this state in law or equity except as such relief may be expressly limited by statute.

(g)

(I) The general assembly hereby finds and determines that the matters contained in this article have important statewide ramifications for the labor force in this state. The general assembly, therefore, declares that the matters contained in this article are of statewide concern.

(II) to (III) Repealed.

C.R.S. § 8-3-103. Construction.

Except as specifically provided in this article, nothing in this article shall be construed so as to interfere with or impede or diminish in any way the right to strike or the right of individuals to work, nor shall anything in this article be so construed as unlawfully to invade the right to freedom of speech. Nothing in this article shall be so construed or applied as to deprive any employee of any unemployment benefit which he might otherwise be entitled to receive under any other laws of the state of Colorado. The fact that any provisions of this article have been adopted from other states, or the language of the statutes of other states has been used in the preparation of this article shall not be taken to adopt as the construction of such provisions the decisions of other states construing such statutes of other states. It is not the intention of the legislature in adopting this article necessarily to adopt the construction that may have been placed upon similar provisions by the courts of other states.

C.R.S. § 8-3-104. Definitions.

As used in this article 3, unless the context otherwise requires:

(1)

(a) "Agricultural employer" means a person that:

(I) Regularly engages the services of one or more employees or contracts with any person who recruits, solicits, hires, employs, furnishes, or transports employees; and

(II) Is engaged in any service or activity included in section 203 (f) of the federal "Fair Labor Standards Act of 1938", 29 U.S.C. sec. 201 et seq., as amended, or engaged in "agricultural labor" as defined in section 3121 (g) of the federal "Internal Revenue Code of 1986", as amended.

(b) The meaning of "agricultural employer" must be liberally construed for the protection of persons providing services to an employer.

(1.5)"All-union agreement" means a contractual provision between an employer or group of employers and a collective bargaining unit representing some or all of the employees of the employer or group of employers providing for any type of union security and compelling an employee's financial support or allegiance to a labor organization. "All-union agreement" includes, but is not limited to, a contractual provision for a union shop, a modified union shop, an agency shop (meaning a contractual provision that provides for periodic payment of a sum in lieu of union dues but does not require union membership), a modified agency shop, a prehire agreement, maintenance of dues, or maintenance of membership.

(2) "Authority" means the state of Colorado; any board, commission, agency, or instrumentality thereof; or any district, municipality, city and county, county, or combination thereof, which acquires or operates a mass transportation system.

(3) "Collective bargaining" means negotiation by an employer and the representative of a majority of his employees who are in a collective bargaining unit or their representatives concerning representation or terms and conditions of

employment of such employees in a mutually genuine effort to reach an agreement with reference to the subject under negotiation.

(4) "Collective bargaining unit" means an organization selected by secret ballot, as provided in section 8-3-107, by a majority vote of the employees of one employer employed within the state who vote at an election for the selection of such unit; except that, where a majority of such employees engaged in a single craft, division, department, or plant have voted by secret ballot that the employees of such single craft, division, department, or plant shall constitute their collective bargaining unit, it shall be so considered. Two or more collective bargaining units may bargain collectively through the same representative or where a majority of the employees in each separate unit have voted to do so by secret ballot, as provided in section 8-3-107.

(5) and (6) Repealed.

(7) "Company union" means an organization of employees, the members of which are the employees of only one employer.

(8) "Director" means the director of the division of labor standards and statistics.

(9) "Division" means the division of labor standards and statistics in the department of labor and employment.

(10) "Election" means a proceeding in which the employees authorized by this article cast a secret ballot to select a collective bargaining unit or for any other purpose specified in this article, including elections conducted by the division of labor standards and statistics or by any tribunal having competent jurisdiction or whose jurisdiction has been accepted by the parties.

(11)

(a) "Employee" includes any person:

(I) Working for another for hire in the state of Colorado in a nonexecutive or nonsupervisory capacity, and is not limited to the employees of a particular employer and includes any individual whose work has ceased solely as a consequence of or in connection with any current labor dispute or because of any unfair labor practice on the part of an employer; and

(II)

(A) Who has not refused or failed to return to work upon the final disposition of a labor dispute or a charge of an unfair labor practice by a tribunal having competent jurisdiction of the same or whose jurisdiction was accepted by the employee or the employee's representative;

(B) Who has not been found to have committed or to have been a party to any unfair labor practice under this article 3;

(C) Who has not obtained regular and substantially equivalent employment elsewhere; or

(D) Who has not been absent from the person's employment for a substantial period of time during which reasonable expectancy of settlement has ceased, except by an employer's unlawful refusal to bargain, and whose place has been filled by another engaged in the regular manner for an indefinite or protracted period and not merely for the duration of a strike or lockout.

(b) "Employee" does not include:

(I) An independent contractor;

(II) Domestic servants employed in and about private homes;

(III) An individual employed by the individual's parent or spouse;

(IV) An employee who is subject to the federal "Railway Labor Act", 45 U.S.C. sec. 151 et seq., as amended; or

(V) A parent, spouse, or child of an agricultural employer's immediate family.

(12)

(a)

(I) "Employer" means a person who regularly engages the services of eight or more employees, other than persons within the classes expressly exempted under the terms of subsection (11) of this section.

(II) "Employer" includes:

(A) Any person acting on behalf of an employer within the scope of the employer's authority, express or implied; and

(B) An agricultural employer.

(b) "Employer" does not include the state or any political subdivision thereof, except where the state or any political subdivision thereof acquires or operates a mass transportation system or any carrier by railroad, express company, or sleeping car company subject to the federal "Railway Labor Act", 45 U.S.C. sec. 151 et seq., as amended, or any labor organization or anyone acting in behalf of such organization other than when the employer is acting as an employer-in-fact.

(13)

(a) "Labor dispute" means any controversy between an employer and such of his employees as are organized in a collective bargaining unit concerning the rights or process or details of collective bargaining. The entering into of a contract for an all-union agreement or the refusal of an employer to enter into an all-union agreement shall not constitute a labor dispute. It shall not be a labor dispute where the disputants do not stand in the proximate relation of employer and employee. No jurisdictional dispute or controversy between two or more unions as to which of them has or shall have jurisdiction over certain kinds of work; or as to which of two or more bargaining units constitutes the collective bargaining unit as to which the employer stands impartial or ready to negotiate or bargain with whichever is legally determined to be such bargaining unit, shall constitute a labor dispute.

(b) The general right of an employer to select his own employees is recognized and shall be fully protected. It shall not constitute a labor dispute if an employer discharges or refuses to employ an employee on account of incompetence, neglect of work, unsatisfactory service, or dishonesty; but the discharge of an employee or the refusal to employ an employee shall constitute a labor dispute only when such discharge or refusal to employ is founded upon membership in a union or labor organization or activity therein or when such discharge or failure to employ is in violation of a contract.

(c) No controversy between an employer and his employee shall constitute a labor dispute until after a bargaining unit in accordance with this article is created and a dispute arises between the bargaining unit and the employer.

(d) No labor dispute shall arise from the refusal of an employer to join a union or to cease work in his own business.

(14)"Local union" means an organization of employees employed in this state, the membership of which includes employees of one or more employers, whether or not they are affiliated with an organization of employees employed in one or more other states.

(15)"Mass transportation system" means any system which transports the general public by bus, rail, or any other means of conveyance moving along prescribed routes, except any railroad subject to the federal "Railway Labor Act", 45 U.S.C. sec. 151 et seq.

(16)"Person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, or receivers.

(17)"Representative" includes any person who is the duly authorized agent of a collective bargaining unit.

(18)"Secondary boycott" includes causing or threatening to cause, and combining or conspiring to cause or threaten to cause, injury to one not a party to the particular labor dispute, to aid which such boycott is initiated or continued, whether by:

(a) Withholding patronage, labor, or other beneficial business intercourse;

(b) Picketing;

(c) Refusing to handle, install, use, or work on particular materials, equipment, or supplies; or

(d) Any other unlawful means in order to bring him against his will into a concerted plan to coerce or inflict damage upon another or to compel the party with whom the labor dispute exists to comply with any particular demands.

C.R.S. § 8-3-105. Director to administer - adopt rules and regulations.

The director shall enforce and administer the provisions of this article and may adopt reasonable rules and regulations relative to its administration and to the conduct of all elections and hearings pertaining to mass transportation as defined in section 8-3-104 (15). Such rules and regulations shall not be effective until ten days after the date thereof.

C.R.S. § 8-3-106. Rights of employees.

In accordance with the provisions of this article, employees have the right of self-organization and the right to form, join, or assist labor organizations, to bargain collectively through representatives of their own free choosing, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection. Each employee also has the right to refrain from any of such activities. The rights of each employee are essential rights, and nothing contained in this article shall be so construed as to infringe upon or have any operation against or in conflict with such rights.

C.R.S. § 8-3-107. Representatives and elections.

(1) A unit chosen for the purpose of collective bargaining shall be the exclusive representative of all of the employees in such unit, if the majority of the employees of one employer, or the majority of the employees of one employer in a craft, vote at an election. But employees individually have the right at any time to present grievances to their employer in person or through representatives of their own free choosing, and the employer shall confer with them in relation thereto.

(2) When a question arises concerning the selection of a collective bargaining unit, it shall be determined by secret ballot, and the director, upon request, shall cause the ballot to be taken in such manner as to show separately the wishes of the employees in any craft, division, department, or plant as to the selection of the collective bargaining unit.

(3) When a question arises concerning the selection of a collective bargaining unit, the director shall determine the question thereof by taking a secret ballot of employees and certifying in writing the results thereof to the bargaining units involved and to their employer. There shall be included on any ballot for the selection of a bargaining unit the names or suitable description of each bargaining unit submitted to the director and claimed to be the appropriate unit by an employee or group of employees participating in the election; except that the director, in his discretion, may exclude from the ballot any bargaining unit which, at the time of the election, stands deprived of its rights under this article by reason of a prior adjudication of its having engaged in an unfair labor practice. The ballot shall be so prepared as to permit a vote against representation by any unit named on the ballot. The director's certification of the results of any election shall be conclusive as to the findings included therein, unless reviewed in the manner provided by section 8-3-110 (8), for review of orders of the director.

(4) Questions concerning the selection of collective bargaining units may be raised by petition of any employee or his employer or the representative of either of them. Where it appears by the petition that any emergency exists requiring prompt action, the director shall act upon said petition forthwith and hold the election requested within such time as will meet the requirements of the emergency presented. The fact that one election has been held shall not prevent the holding of another election among the same group of employees, if it appears to the director that sufficient reason therefor exists.

(5) The director shall investigate and determine which persons shall be qualified and entitled to vote at any election held by him and shall prepare and certify a poll list of such qualified voters and shall file the same in the office of the director not later than twenty-four nor earlier than forty-eight hours preceding the time of such balloting. The list shall

be available to the collective bargaining units whose interests are involved in the election. On request of any employee, the list shall be prepared so as to show separately which employees are entitled to vote for general representation of the employees and which employees are entitled to vote separately for craft representation or representation of any one of several plants of a common employer. No person whose name is not so certified shall be entitled to vote at such election. The director shall protect the secrecy of the ballot and shall take all proper measures for the accurate counting thereof and shall certify the result thereof and immediately file such certificate in the records of the division and make the same available for the inspection of any person interested. The bargaining units so elected and certified shall be the respective representatives of the employees so electing them and recognized as such under this article. The names of all persons voting at the election for the selection of a bargaining unit shall be certified to the division and filed in its records and shall constitute the voting roll for said bargaining unit for all purposes under this article. The name of any person leaving such employment shall be removed from the roll; except that any employee whose name appears on said voting roll may have his name withdrawn from said roll by notice in writing to the division.

C.R.S. § 8-3-108. What are unfair labor practices.

(1) It is an unfair labor practice for an employer, individually or in concert with others, to:

(a) Interfere with, restrain, or coerce his employees in the exercise of the rights guaranteed in section 8-3-106;

(b) Initiate, create, dominate, or interfere with the formation or administration of any labor organization or contribute financial support to it; except that an employer shall not be prohibited from reimbursing employees at their prevailing wage rate for time spent conferring with him, nor from cooperating with representatives of at least a majority of his employees in a collective bargaining unit, at their request, by permitting employee organizational activities on employer premises or the use of employer facilities where such activities or use create no additional expense to the employer;

(c)

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

(II)

(A) Any agreement as defined in section 8-3-104 (1.5) between an employer and a labor organization in existence on June 29, 1977, which has not been voted upon by the employees covered by it may, by written mutual agreement of such employer and labor organization, be ratified and upon such ratification shall be filed with the director. Any agreement as defined in section 8-3-104 (1.5) between an employer and a labor organization in existence on June 29, 1977, which has not been ratified and filed, as provided in this subsection (1)(c)(II), shall not be legal, valid, or enforceable during the remaining term of that labor contract unless and until either the employer, the labor organization, or at least twenty percent of the employees covered by such agreement file a petition upon forms provided by the division, demanding an election submitting the question of the all-union agreement to the employees covered by such agreement and said agreement is approved by the affirmative vote of at least a majority of all the

employees eligible to vote or three-quarters or more of the employees who actually voted, whichever is greater, by secret ballot in favor of such all-union agreement in an election provided for in this subsection (1)(c) conducted under the supervision of the director.

(B) Upon filing of such instrument of ratification with the director, the director shall certify that such agreement complies with the provisions of section 8-3-104 (1.5) notwithstanding the absence of any other election requirements of this article 3, and by virtue of such ratification and certification, such agreement shall be deemed legal, valid, and enforceable to the extent permitted under the provisions of this article 3, subject to the provisions of subsection (1)(c)(II)(D) of this section.

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

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

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

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

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

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

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

(d) Refuse to bargain collectively with the representatives of his employees in any collective bargaining unit; except that where an employer with reasonable cause files with the division a petition requesting a determination as to bargaining unit representation, he shall not be deemed to have refused to bargain until an election has been held and the result thereof has been certified to him by the director;

(e) Enter into an all-union agreement except in the manner provided in paragraph (c) of this subsection (1);

(f) Violate the terms of a collective bargaining agreement, including an agreement to accept an arbitration award;

(g) Refuse or fail to recognize or accept as conclusive of any issue in any controversy as to employment relations the final determination, after appeal, if any, of any tribunal having competent jurisdiction of the same or whose jurisdiction the employer has accepted;

(h) Discharge or otherwise discriminate against an employee because he has filed charges or given information or testimony in good faith under the provisions of this article;

(i) Deduct labor organization dues or assessments from an employee's earnings, unless the employer has been presented with an individual order therefor, signed by the employee personally and terminable at any time by the employee's giving at least thirty days' written notice of such termination;

(j) Employ any person to spy upon employees or their representatives respecting their exercise of any right created or approved by this article;

(k) Make, circulate, or cause to be circulated a blacklist as described in section 8-2-110;

(l) Commit any crime or misdemeanor in connection with any controversy as to employment relations;

(m) Require a potential employee to furnish preemployment application information regarding said applicant's record of civil or military disobedience, unless any such matters resulted in a plea of guilty or a conviction by a court of competent jurisdiction.

(2) It is an unfair labor practice for an employee, individually or in concert with others, to:

(a) Coerce or intimidate an employee in the enjoyment of his legal rights, including those guaranteed in section 8-3-106, or to intimidate his family or any member thereof, picket his domicile, or injure the person or property of such employee or his family or of any member thereof;

(b) Coerce, intimidate, or induce any employer to interfere with any of his employees in the enjoyment of their legal rights, including those guaranteed in section 8-3-106, or to engage in any practice with regard to his employees which would constitute an unfair labor practice if undertaken by him on his own initiative;

(c) Violate the terms of a collective bargaining agreement, including an agreement to accept an arbitration award;

(d) Refuse or fail to recognize or accept as conclusive of any issue in any controversy as to employment relations the final determination, after appeal, if any, of any tribunal having competent jurisdiction of the same or whose jurisdiction the employees or their representatives accepted;

(e) Cooperate in engaging in, promoting, or inducing picketing, boycotting, or any other overt concomitant of a strike unless a majority in a collective bargaining unit of the employees of an employer against whom such acts are primarily directed have voted by secret ballot to call a strike;

(f) Hinder or prevent, by mass picketing, threats, intimidation, force, or coercion of any kind, the pursuit of any lawful work or employment; or to obstruct or interfere with entrance to or egress from any place of

employment; or to obstruct or interfere with free and uninterrupted use of public roads, streets, highways, railways, airports, or other ways of travel or conveyance;

(g) Engage in a secondary boycott, or to hinder or prevent, by threats, intimidation, force, coercion, or sabotage, the obtaining, use, or disposition of materials, equipment, or services, or to combine or conspire to hinder or prevent, by any means whatsoever, the obtaining, use, or disposition of materials, equipment, or services;

(h) Take, retain, or remain in unauthorized possession of property or any part thereof of the employer, or to engage in any concerted effort to interfere with production, except by leaving the premises in an orderly manner for the purpose of going on strike;

(i) Engage in a sit-down strike on the premises or property of the employer;

(j) Fail to give the notice of intention to strike provided in section 8-3-113;

(k) Commit any crime or misdemeanor in connection with any controversy as to employment relations;

(l) Demand or require any stand-in employee to be hired or employed by an employer, or to demand or require that the employer employ or pay for an employee to stand by or stand in for work being done by other employees, or to require the employer to employ or pay for any employee not required by the employer or necessary for the work of the employer;

(m) Do or cause to be done, on behalf of or in the interest of employers or employees, or in connection with or to influence the outcome of any controversy as to employment relations, any act prohibited by subsections (1) and (2) of this section.

(3) It is an unfair labor practice for an employee, individually or in concert with others, or for a labor organization or any of its agents to:

(a) Induce or encourage the employees of an employer to engage in a strike or concerted refusal in the course of their employment, or by any means to force or require an employer or any one or more employees to refrain from or prevent the use of any material, device, tool, or equipment intended or calculated to reduce the cost of the work;

(b) Require or force an employer to use any materials or do any work or render any service in connection with any task, job, work, or service as a condition of using any labor-saving device, equipment, tool, or instrument in the performance of such task, job, work, or service;

(c) Impose on any employee any fine, penalty, or forfeiture because such employee has used, is using, or has attempted to use a labor-saving device;

(d)

(I) Engage in or induce or encourage employees of any employer to engage in a strike or concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities or to perform any service where an object thereof is forcing or requiring any employer to assign particular work to employees in a particular trade, craft, or class rather than to employees in another labor organization or in another trade, craft, or class unless such employer is failing to conform to an order of the director or certification determining the bargaining representative for employees performing such work; but nothing contained in this subsection (3) shall be construed to make unlawful a refusal by any person to enter upon the premises of any employer (other than his own employer). Whenever a complaint is filed charging that any person or labor organization is engaged in the unfair labor practice defined in this paragraph (d), the director shall hear and determine the dispute concerning the assignment of work out of which such complaint arises, unless within ten days the parties to the dispute provide evidence to the director that the dispute is properly adjusted, in which case the complaint shall be dismissed by the director.

(II) Upon the filing of a complaint under this paragraph (d), the director shall make a preliminary investigation, and, if he finds that there is reasonable cause that the complaint is true, he may issue an order directing that the employees or labor organization cease and desist from striking, picketing,

or refusing to handle or work on goods pending a resolution by the director of the dispute out of which the complaint arises.

(III) Upon the failure or refusal of any person or labor organization against whom such order is issued to comply with this order or direction, the district court of the district wherein the strike, picketing, or refusal to handle or work on goods takes place may, upon application of the director, issue injunctive relief in the manner provided in the Colorado rules of civil procedure for courts of record in Colorado.

(e) With regard to the entirety of this subsection (3), the following shall apply: Such material, device, tool, or equipment is germane to the employees' craft and not injurious to the employees' health and safety or the public generally, and nothing in this subsection (3) shall negate the rights of an employer and a labor organization to bargain collectively pursuant to subsection (1)(d) of this section.

(4) It is an unfair labor practice to do or cause to be done, on behalf of or in the interest of employers or employees, or in connection with or to influence the outcome of any controversy as to employment relations, any act prohibited by subsections (1), (2), and (3) of this section.

C.R.S. § 8-3-109. What are not unfair labor practices.

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

(2) The right of both employer and employee freely to express, declare, and publish their respective views and proposals concerning any labor relationship shall not be abrogated or limited by this article, nor shall the exercise of such right constitute an unfair labor practice. No strike shall be lawful unless it is authorized by a majority vote of the employees in the union involved taken by secret ballot such as is provided in this article.

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

C.R.S. § 8-3-110. Prevention of unfair labor practices.

(1) Any controversy concerning unfair labor practices may be submitted to the division in the manner and with the effect provided in this article; but nothing in this article shall prevent the pursuit of equitable or legal relief in courts of competent jurisdiction, nor shall it be any ground for refusal of such relief that all of the administrative remedies provided in this article before the division have not been exhausted.

(2) Upon the filing with the division by any party in interest of a complaint in writing on a form provided by the division charging any person with having engaged in any specific unfair labor practice, the division shall mail a copy of such complaint to all persons so charged. Any other person claiming interest in the dispute or controversy, as an employer, an employee, or representative thereof, shall be made a party upon application. The director may bring in additional parties by service of a copy of the complaint. Only one such complaint shall issue against a person with respect to a single controversy, but any such complaint may be amended in the discretion of the director at any time prior to the issuance of a final order based thereon. The persons so complained of have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the notice of hearing. The director shall fix a time for the hearing on such complaint, which shall not be less than ten nor more than forty days after the filing of such complaint. Notice shall be given to the complainant and to each party named in the pleadings by service on him personally or by mailing a copy thereof to him at his last known post office address at least ten days before such hearing. In case a party in interest is located without the state and has no known post office address within this state, a copy of the complaint and copies of all notices shall be filed in the office of the secretary of state and shall also be sent by registered mail to the last known post office address of such party. Such filing and mailing shall constitute sufficient service with the same force and effect as if served upon the party located within this state. Such hearing may be adjourned from time to time in the discretion of the director and hearings may be held at such places as the director designates. The director may initiate and file any such complaint of his own motion or at

the request of any interested person. Should the director file such a complaint on request, he shall not disclose the name or interest of the person upon whose request the complaint is filed, if in his judgment such disclosure would tend to prejudice the interest of any person who may be affected by any order that the director may enter upon such complaint.

(3) The director has the power to issue subpoenas and administer oaths. Depositions may be taken in the manner prescribed by the Colorado rules of civil procedure, and all such depositions shall be taken upon commissions issued by the director. No person shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence in obedience to the subpoena of the director on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture under the laws of the state of Colorado. No individual shall be prosecuted or subjected to any penalty or forfeiture for any transaction, matter, or thing concerning which he may testify or produce evidence, documentary or otherwise, before the director in obedience to a subpoena issued by him. An individual so testifying shall not be exempt from prosecution and punishment for perjury in the first degree committed in so testifying.

(4) Any person who willfully and unlawfully fails or neglects to appear or testify or to produce books, papers, and records as required, upon application to a district court, shall be ordered to appear before the director to testify or produce evidence if so ordered, and failure to obey such order of the court may be punished by the court as a contempt thereof.

(5) Each witness who appears before the director by his order or subpoena shall receive for his attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid by the state in the same manner as other expenses are audited and paid, upon presentation of properly verified vouchers approved by the director and charged to the proper appropriation for the division.

(6) A complete record shall be kept of all proceedings had before the director, and all testimony and proceedings shall be taken down by the reporter appointed by the director. Such proceedings shall not be governed by the technical rules of evidence, but by such rules as are prescribed by the director for administrative hearings.

(7) After the final hearing the director shall promptly make and file his findings of fact upon all of the issues involved in the controversy and his order which shall state his determination as to the rights of the parties. Pending the final determination of any controversy before him, the director, after hearing, may make interlocutory findings and orders, which may be enforced in the same manner as final orders. Final orders may dismiss the charges or require the person complained of to cease and desist from the unfair labor practices found to have been committed; suspend his rights, immunities, privileges, or remedies granted or afforded by this article as the director may specify, but not more than one year; and require an employer to take such affirmative action, including reinstatement of employees with or without pay, as the director may deem proper. Any order may further require such person to make reports from time to time showing the extent to which he has complied with the order.

(8) The director may authorize a deputy, referee, or administrative law judge appointed pursuant to part 10 of article 30 of title 24, C.R.S., to take evidence and to make findings and report them to the director. Any party in interest who is dissatisfied with the findings or order of the director may seek judicial review pursuant to section 24-4-106, C.R.S.

(9) The director, on his own motion, may set aside, modify, or change any of his findings or orders at any time within twenty days from the date thereof if he discovers any mistake therein or upon the ground of newly discovered evidence.

(10)If any party fails or neglects to obey an order of the director while the same is in effect, the director may file a complaint in the district court of the county wherein such person resides or usually transacts business for the enforcement of such order for appropriate temporary relief or restraining order, and shall certify and file in the court the record in the proceedings, including all documents and papers on file in the matter, and pleadings and testimony upon which such order was entered, and the findings and order of the director. Upon the filing the director shall cause notice thereof to be served upon such party by mailing a copy to his last known post office address, and thereupon the court has jurisdiction of the proceedings and of the question determined therein. Said action may thereupon be brought on for hearing upon such order by the director serving ten days' written notice upon the respondent, subject, however, to the Colorado rules of civil procedure for a change of the place of trial or the calling in of another judge. Upon such hearing the court may confirm, modify, or set aside the order of the director and enter an appropriate decree. No objection that was not urged before the director shall be considered by the court unless the failure or neglect to urge such objection is excused because of extraordinary circumstances. The findings of fact made by the director, if supported by credible and competent evidence in the record, shall be conclusive. The court in its discretion may grant

leave to adduce additional evidence before the court where such evidence appears to be material and reasonable cause is shown for failure to have adduced such evidence in the hearing before the director. The director may modify his findings as to facts, or make new findings by reason of such additional evidence, and he shall file such modified or new findings with the same effect as his original findings and shall file his recommendations, if any, for the modification or setting aside of his original order. The court's judgment and decree shall be final; except that the same shall be subject to appellate review as provided by law.

(11) to (14) Repealed.

(15) Substantial compliance with the procedures of this article is sufficient to give effect to the orders of the director, and they shall not be declared inoperative, illegal, or void for any omission of a technical nature in respect thereto.

(16) The right of any person to proceed under this section and section 8-3-121 shall not extend beyond six months from the date of the specific act or unfair labor practice alleged.

(17) The director also has the power by himself and on his own motion to initiate proceedings in the manner provided in this section. It is likewise the duty of the director to so initiate a proceeding in his own name whenever complaint is made to him by any party in interest if it appears to the director that the disclosure of the name of the complainant, either as an employee or group of employees or as an employer or agent or representative of the employer, would jeopardize the rights or interests or standing of any party in interest. The proceedings so initiated by the director shall be conducted in the same manner and have the same effect as provided for in this section.

(18)

(a) The director has the power and it is his duty in carrying out the public policy of the state, either upon his own initiative or upon the complaint of any party in interest or any organization or persons representing any public interests, if there is picketing which in the opinion of the director might tend to lead to riots, disturbances, or assaults or disturb public peace or injure the property or persons of individuals, to limit the number of pickets that may be permitted; and to prescribe the distance from any plant, entrance, or exit where such picketing may be permitted; and to otherwise prescribe limits to such picketing, including not only the number of persons picketing but also the manner or method thereof; and to prevent the use of weapons of any kind or threats or intimidation.

(b) Upon the failure or refusal of any person against whom any such order or direction is issued to comply with such order or direction, the district court of the district wherein the picketing takes place or the violation occurs, upon application of the director, may issue injunctive relief in the manner provided in the Colorado rules of civil procedure for courts of record in Colorado.

C.R.S. § 8-3-111. Protection of employees when authority acquires certain operations.

(1) Before any authority may acquire and operate any property of a privately or publicly owned mass transportation system, fair and equitable protective arrangements, as determined by the director, shall be made to insure certain rights of employees. Such protective arrangements shall include, without being limited to, such provisions as may be necessary to accomplish the following objectives:

(a) The preservation of existing rights, privileges, and benefits of employees under existing collective bargaining agreements between the mass transportation system and the employees thereof, including the continuation of all pension rights and benefits of the employees and their beneficiaries;

(b) The continuation of all collective bargaining in any situation existing at the time of such acquisition and the assurance of employment of all the employees of such mass transportation system so acquired;

(c) The protection of all individual employees with respect to their employment, including priorities, seniorities, and right of advancement when in agreement with any existing collective bargaining agreement;

(d) Training and retraining programs of employees and managing personnel.

(2) The contract whereby an authority acquires any property of a privately or publicly owned mass transportation system shall specify with particularity, the terms and conditions of all the protective arrangements set forth in this section,

including all other protective arrangements which may be added through collective bargaining or by direction of the director.

(3) The determination of the sufficiency of protective arrangements shall be made by the director in accordance with such rules and regulations as the commission may from time to time establish.

C.R.S. § 8-3-112. Arbitration.

(1) Parties to a labor dispute may agree in writing to have the director act as arbitrator or to name arbitrators to arbitrate all or any part of such dispute, and thereupon the director shall have the power so to act. The director shall appoint as arbitrators only competent, impartial, and disinterested persons. Proceedings in any such arbitration shall be as provided by the rules of arbitration under the Colorado rules of civil procedure.

(2) All parties to any labor dispute when the employer is an authority shall submit to arbitration upon written order of the director when such written order is the result of the procedure set forth in section 8-3-113 (3). Any order so given shall be subject to appeal within five days of the receipt of such order by either the employee's representative or the authority, who are parties in interest. Appeal of the order shall be made to the district court in the judicial district where the most substantial number of the employees concerned are employed. Such court shall either confirm, deny, amend, or continue the order within sixty days following the application for appeal. The results of any arbitration conducted in accordance with the procedure set forth in this article shall be binding upon all parties in interest with the right of appeal to any court of competent jurisdiction on the grounds that the director or arbitration board has been unfair, capricious, or unjust in its conduct, determinations, or award.

C.R.S. § 8-3-113. Mediation.

(1) The director has power to appoint any competent, impartial, disinterested person to act as mediator in any labor dispute either upon his own initiative or upon the request of one of the parties to the dispute. It is the function of such mediator to bring the parties together voluntarily under such favorable auspices as will tend to effectuate settlement of the dispute, but neither the mediator nor the director has any power of compulsion in mediation proceedings. The director shall provide necessary expenses and order reasonable compensation for such mediators as he may appoint.

(2) Where, as provided by this article, the exercise of the right to strike by the employees of any employer engaged in the state of Colorado in the production, harvesting, or initial processing, the latter after leaving the farm, of any farm or dairy product produced in this state would tend to cause the destruction or serious deterioration of such product, the employees shall give to the division at least thirty days' notice of their intention to strike, and, in the case of employees in all other industries or occupations, at least twenty days' notice of their intention to strike. The division shall immediately notify the employer of the receipt of such notice. Upon receipt of such notice, the director shall take immediate steps to effect mediation, if possible. In the event of the failure of the efforts to mediate, the director shall endeavor to induce the parties to arbitrate the controversy. Any strike called or made effective before the expiration of twenty days from the date of such notice shall constitute an unfair labor practice.

(3) Where the exercise of the right to strike is desired by the employees of any authority, the employees or their representatives shall file with the division written notice of intent to strike not less than forty calendar days prior to the date contemplated for such strike. Within twenty days of the filing of the notice, the director shall enter an order allowing or denying the strike based on the grounds of whether or not such strike would interfere with the preservation of the public peace, health, and safety in accordance with rules and regulations of the division. Any order denying a strike under this section shall include an order to arbitrate in accordance with section 8-3-112. Such arbitration shall be entered into not later than one hundred days from the filing of the notice of intent to strike. Immediately upon receipt of a notice of intent to strike, the director shall take steps to effect mediation, if possible. In the event of failure to mediate, the director shall endeavor to induce the parties to arbitrate the controversy. Any strike before the expiration of forty days from the giving of notice of intent to strike or in violation of an order of the director, unless such order is changed on appeal or otherwise, shall constitute an unfair labor practice.

(4) The division shall prescribe reasonable rules of procedure for mediation under this section.

C.R.S. § 8-3-114. Duties of attorney general and district attorneys.

Upon the request of the director, the attorney general or the district attorney of the county in which a proceeding is brought before the district court for the purpose of enforcing or reviewing an order of the director shall appear and act as counsel for the director in such proceeding and in any proceeding to review the action of the district court affirming, modifying, or reversing such order.

C.R.S. § 8-3-115. Employer and employee committees.

The director, from time to time, may appoint joint, standing, or special committees composed in equal numbers of representatives of employees and employers. The director may refer to any such committee for its study and advice any matters concerning the relations of employers and employees or the operation of this article.

C.R.S. § 8-3-116. Interference with director - officer of division.

Any person who willfully assaults, resists, prevents, impedes, or interferes with the director or any officer, deputy, agent, or employee of the division or any of its agencies in the performance of duties pursuant to this article 3 commits a class 2 misdemeanor.

C.R.S. § 8-3-117. Existing contracts unaffected.

Nothing in this article shall operate to abrogate, annul, or modify any valid agreement respecting employment relations existing on or before April 1, 1943.

C.R.S. § 8-3-118. Jurisdiction to issue restraining orders or injunctions.

(1) Except as otherwise provided in this article, no court has jurisdiction to issue in any case involving or growing out of a labor dispute any restraining order or temporary or permanent injunction which in specific or general terms prohibits any person from doing, whether singly or in concert, any of the following acts:

(a) Ceasing or refusing to perform any work or to remain in any relation of employment, regardless of any promise, undertaking, contract, or agreement to do such work or to remain in such employment;

(b) Becoming or remaining a member of any labor organization or of any employer organization, regardless of any undertaking or promise as is described in section 8-3-119;

(c) Paying or giving to or withholding from any person any strike or unemployment benefits or insurance or other moneys or things of value;

(d) Aiding, by all lawful means, any person who is being proceeded against in, or is prosecuting any action or suit in, any court of this state;

(e) Giving publicity to and obtaining or communicating information regarding the existence of or the facts involved in any dispute, whether by advertising, speaking, without intimidation or coercion, or by any other method not involving fraud, violence, breach of the peace, or threat thereof;

(f) Ceasing as an organization to patronize any person with whom the organization has a labor dispute or requiring it to employ any person;

(g) Assembling peaceably to do or to organize to do any of the acts specified in this section or to promote lawful interests;

(h) Advising or notifying any person of an intention to do any of the acts specified in this section;

(i) Agreeing with other persons to do or not to do any of the acts specified in this section;

(j) Advising, urging, or inducing, without fraud, violence, or threat thereof, others to do the acts specified in this section, regardless of any such undertaking or promise as is described in section 8-3-119;

(k) Doing in concert any acts specified in this section on the ground that the persons engaged therein constitute an unlawful combination or conspiracy.

C.R.S. § 8-3-119. Relations contrary to public policy.

(1) The following is declared to be contrary to public policy and shall not afford any basis for the granting of legal or equitable relief by any court against a party to such undertaking or promise or against any other persons who may advise, urge, or induce, without fraud, violence, or threat thereof, either party thereto to act in disregard of the undertaking or promise: Every undertaking or promise made on or after April 1, 1943, whether written or oral, express or implied, between any employee or prospective employee and his employer, prospective employer, or any other individual, firm, company, association, or corporation, whereby:

(a) Either party thereto undertakes or promises to join or to remain a member of some specific labor organization or to join or remain a member of some specific employer organization or any employer organization; or

(b) Either party thereto undertakes or promises not to join or not to remain a member of some specific labor organization or of some specific employer organization or any employer organizations; or

(c) Either party thereto undertakes or promises that he will withdraw from an employment relation in the event that he joins or remains a member of some specific labor organization or any labor organization or of some specific employer organization or any employer organization.

C.R.S. § 8-3-120. Conflict of provisions.

Wherever the application of the provisions of other statutes or laws conflict with the application of the provisions of this article, this article shall prevail; except that, in any situation where the provisions of this article cannot be validly enforced, the provisions of such other statutes or laws shall apply.

C.R.S. § 8-3-121. Civil liability for damages.

(1) Any person who suffers injury because of an unfair labor practice has a right of action, jointly and severally, against all persons participating in said practice for damages caused to the injured person thereby.

(2) If, in accordance with this article or otherwise, persons otherwise unwilling to do so are induced to violate contracts of employment or for services or materials, any person injured thereby shall be entitled to recover and have judgment therefor at law against the persons, jointly and severally, so inducing the violation of such obligations.

C.R.S. § 8-3-122. Penalty for violation.

Any person, firm, or corporation who violates any of the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined for the first offense not less than fifty dollars nor more than one hundred dollars and for the second and subsequent offenses not less than one hundred dollars nor more than five hundred dollars, together with costs.

C.R.S. § 8-3-123. Nonapplicability of other statutes.

The provisions of sections 8-1-108, 8-1-120, and 8-1-123 shall not apply to this article, but this article and the administration thereof are governed and controlled as to all matters contained in sections 8-1-108, 8-1-120, and 8-1-123 by the special provisions of this article.