

1
2 **BY AUTHORITY**

3 ORDINANCE NO.
4 SERIES OF 2024

COUNCIL BILL NO. 24-0716
COMMITTEE OF REFERENCE:
Finance and Governance

6
7 **A BILL**

8
9 **For an ordinance submitting to a vote of the qualified and registered electors of the**
10 **City and County of Denver at the special municipal election on November 5, 2024,**
11 **a proposed amendment to the Charter of the City and County of Denver to establish**
12 **collective bargaining as the method for setting compensation and certain terms**
13 **and conditions of employment for certain city employees including employees of**
14 **Denver Water and the Denver Library while allowing a right to strike in the event of**
15 **an impasse in bargaining negotiations only if such strike will not imminently and**
16 **substantially threaten the public health, welfare, or safety and making conforming**
17 **amendments.**

18
19 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

20
21 **Section 1.** There is hereby submitted to the properly qualified and registered electors of the
22 City and County of Denver for their approval or rejection at a special municipal election to be
23 conducted at the same time and in conjunction with the statewide general election to be held in the
24 City and County of Denver on November 5, 2024, a proposed amendment to the Charter of the City
25 and County of Denver, as follows:

26 **§ 1.2.15 - Pay periods.**

27 All salaries and compensation of all officers and employees shall be payable at periods of time as
28 may be provided by ordinance or in accordance with collective bargaining agreements. Any Charter
29 or ordinance changes relating to pay schedules shall not affect any rights or benefits that have vested
30 prior to the enactment of such changes, even if that should require the maintenance of dual payroll
31 systems by the City.

32 **§ 4.3.2 - Appointment of officers and employees by Presiding Judge.**

33 The Presiding Judge shall appoint the necessary court officers and administrative employees of the
34 court including the Chief Clerk, whose appointments shall be subject to Career Service regulations
35 or in accordance with collective bargaining agreements. The Presiding Judge may appoint
36 magistrates who shall hold such appointments so long as their services are satisfactory to the
37 Presiding Judge.

1 **§ 9.1.1 - Career Service personnel system.**

2 A.(A) There shall be and is hereby created a Career Service personnel system, which shall
3 be directed by a Career Service Board of five (5) members appointed by the Mayor and confirmed
4 by the City Council for staggered terms fixed by ordinance. The Board shall, pursuant to its own
5 rulemaking procedures, adopt, administer and enforce rules necessary to foster and maintain a
6 merit-based personnel system according to the principles set forth in this Part 1, including but not
7 limited to rules concerning the conduct of competitive examinations of competence, probationary
8 periods, grievance procedures, and appeals from actions of appointing authorities to the Board and
9 any hearing officers appointed by the Board. Provided, however, that in the event of any conflict
10 between such rules and the terms and conditions negotiated in a collective bargaining agreement
11 pursuant to Part 10 of this Article, the terms and conditions in the collective bargaining agreement
12 shall control. The Board and any hearing officers appointed by the Board shall have the power to
13 issue subpoenas. The Board shall perform such other duties in relation to the Career Service
14 personnel system as may be assigned by ordinance consistent with this Charter.

15 B.(B) All appointments and promotions of employees in the Career Service shall be made
16 solely on the basis of merit and ability, or pursuant to a collective bargaining agreement entered into
17 pursuant to Part 10 of this Article. Dismissals, suspensions or disciplinary demotions of non-
18 probationary employees in the Career Service shall be made only for cause, including the good of
19 the service and subject to the right to strike provided in Part 10 of this Article. The Career Service
20 personnel system shall provide for equal employment opportunity without regard to race, color,
21 creed, national origin, gender, sexual orientation, age, disability, or political affiliation or any other
22 status protected by federal, state or local laws.

23 C.(C) The City Council shall by ordinance enact a classification, ~~and~~ pay plan, ~~and~~ attendant
24 pay rates, and benefits for all classifications in the Career Service and all classifications not in the
25 Career Service based upon the duties of the several classifications, except elected and appointed
26 Charter officers, the ranks of the classified service in the Police and Fire Departments, Deputy
27 Sheriffs, Deputy Sheriff Majors, Deputy Sheriff Division Chiefs, ~~and the Sheriff, and other employees~~
28 whose classification, pay plan, attendant pay rates, and benefits are set in accordance with collective
29 bargaining agreements pursuant to Part 10 of this Article ~~based upon the duties of the several~~
30 ~~classifications.~~ The pay rates as reflected in the pay plan shall provide like pay for like work within
31 such classifications. ~~The Council shall also by ordinance enact benefits for employees in such~~
32 ~~classifications.~~ The Council shall enact such ordinances after recommendations are made as
33 provided in subsection (D) of this section. Nothing in this section shall be deemed to prohibit the

1 payment of incentives for outstanding performance by employees within such classifications
2 according to standards and procedures established by ordinance.

3 **§ 9.9.14 - Collective bargaining agreement; what constitutes.**

4 (A) The collective bargaining agreement between the City and the bargaining agent shall
5 consist of any and all terms actually agreed to by the parties or awarded by the arbitrator. At the
6 request of either the bargaining agent or the Corporate Authorities, the agreement shall contain a
7 grievance procedure which culminates in final and binding arbitration by a neutral arbitrator. The
8 grievance procedure may be established by voluntary agreement or by the arbitrator, provided such
9 grievance procedure shall not conflict with any provisions of the Charter.

10 (B) Whenever there is a conflict between the terms of the ~~collective bargaining agreement and a~~
11 rule, executive order, procedure, policy, or any ordinance of the City which is applicable only to
12 employees of the City, the provisions of the agreement shall prevail ~~any provision of the Charter of~~
13 ~~the City and County of Denver, applicable Career Service Rules, applicable City Ordinances or~~
14 ~~Federal or State laws, or executive orders, the agreement shall be deemed to be subordinate unless~~
15 ~~there is express violation of the terms of this Part 9.~~

16 **PART 10. - COLLECTIVE BARGAINING; CERTAIN CITY EMPLOYEES**

17 **§ 9.10.1 - Statement of policy.**

18 It is the public policy of the people of the City and County of Denver to equalize the bargaining
19 power of city employees and the elected and appointed officials of the City and County of Denver by
20 providing for such employees the right to bargain collectively with the employer through an exclusive
21 agent for certain terms and conditions of employment, the right to have such terms and conditions
22 set by contract, and all other rights of labor, including the right to strike, or organize in any work
23 stoppage, slowdown, or mass absenteeism in the event of an impasse as provided in this Part 10.

24 **§ 9.10.2 - Definitions.**

25 As used in this Section, the following terms shall, unless the context requires a different
26 interpretation, have the following meanings:

27 (A) “Bargaining agent” means an employee organization chosen by the bargaining unit
28 pursuant to Section 9.10.5

29 (B) “Bargaining unit” means a group of two or more bargaining-eligible employees as
30 determined pursuant to Section 9.10.4 for the purposes of representation by a bargaining agent.

31 (C) “Bargaining-eligible employees” means non-supervisory and non-confidential
32 employees comprising of the Career Service as defined in Section 9.1.1 (E) and employees of the
33 City Council, Library Commission, Civil Service Commission, Board of Adjustment, and the Board of

1 Water Commissioners, but excluding Deputy Sheriffs, Deputy Sheriff Majors, Deputy Sheriff Division
2 Chiefs, and Career Service employees of the Denver Health and Hospital Authority.

3 (D) “Confidential employee” means an employee who assists and acts in a confidential
4 capacity to persons who formulate, determine, and effectuate management policies in the field of
5 labor relations and shall have the same meaning and be interpreted in the same manner as that term
6 is used in the National Labor Relation Act, 29 U.S.C. §§ 151-169, as amended.

7 (E) “Corporate Authority” means the Mayor and City Council for employees comprising the
8 Career Service as defined in Section 9.1.1 (E), employees of the City Council, employees of the Civil
9 Service Commission, and employees of the Board of Adjustment. The Library Commission and the
10 Board of Water Commissioners shall be the Corporate Authority for their respective employees.

11 (F) “Employee organization” means an organization of any kind in which employees
12 participate and which exists for the purpose, in whole or in part, of negotiating with the Corporate
13 Authority on labor disputes, wages, rates of pay, hours of employment, or other conditions of
14 employment as provided in this Part 10. An employee organization shall not include an organization
15 initiated, created, or dominated by the Corporate Authority or any organization acting on behalf of
16 the Corporate Authority.

17 (G) “Supervisory employee” means any employee having authority, in the interest of the
18 applicable Corporate Authority, to direct, hire, transfer, suspend, lay off, recall, promote, discharge,
19 assign, reward, or discipline other employees.

20 **§ 9.10.3 - Right to organize and bargain collectively; subjects of bargaining.**

21 (A) On or after May 1, 2025, bargaining-eligible employees shall have the right to bargain
22 collectively with their respective Corporate Authority and to be represented by a bargaining agent in
23 such negotiations as to wages and compensation, rates of pay, benefits, dependent benefits,
24 promotions and demotions, hours, working conditions, employee facilities, paid time off, leave,
25 grievance procedures, disciplinary procedures, and other terms and conditions of employment
26 consistent with the provisions in this charter and state and federal law. Provided, however, that
27 participation in either the Denver Employees Retirement Plan or the Employees Retirement Plan of
28 the Denver Board of Water Commissioners shall not be a subject of negotiation.

29 (B) Nothing in this Part 10 shall affect the authority of the Mayor and the cabinet to
30 formulate the general administrative policies of the City and County, or the authority of appointed
31 and elected city officers, including the Board of Water Commissioners, to determine which services
32 are provided to the public, to hire and assign job duties to employees, to take actions necessary to
33 comply with federal or state law, or take any other actions necessary to comply with the requirements

1 of this Charter.

2 **§ 9.10.4 - Determination of bargaining unit.**

3 (A) On or after May 1, 2025, an employee organization wishing to represent bargaining-
4 eligible employees shall determine which employees share a substantial mutual interest in wages,
5 hours, and other conditions of employment such that they share a community of interest as
6 understood under the National Labor Relation Act, 29 U.S.C. §§ 151-169, as amended, provided,
7 however, bargaining units for employees of the City Council, Library Commission, Civil Service
8 Commission, Board of Adjustment, and Board of Water Commissioners may only include employees
9 of their respective bodies.

10 (B) In the event that the respective Corporate Authority or another employee organization
11 disputes the appropriateness of the bargaining unit, the matter shall be submitted to binding
12 arbitration using standards and procedures established by ordinance, or in the case of disputes
13 regarding bargaining units for employees of the Board of Water Commissioners, by rules and
14 regulations or policies and procedures promulgated by the Board.

15 (C) The Council, or the Board of Water Commissioners for bargaining units made up of the
16 Board's employees, shall create a permanent panel of at least three (3) arbitrators to decide disputes
17 regarding bargaining units pursuant to this Section. In order to be eligible to be on the permanent
18 panel of arbitrators, a person must be impartial and disinterested and must be qualified by
19 experience and training as a neutral hearing officer or arbitrator in labor or management disputes.
20 The dispute experience shall be in impasse negotiations between labor and management, disputes
21 over the meaning or application of contracts between labor and management, or discipline. Any
22 person whose only experience is as a hearing officer for any Civil or Career Service System shall
23 not be qualified. Persons who are members of the National Academy of Arbitrators or on the
24 American Arbitration Association panel of labor arbitrators are presumptively qualified. The terms,
25 procedure for removal, and method of selection shall be set forth by ordinance, or in the case of
26 arbitrators for employees of the Board of Water Commissioners, by rules and regulations
27 promulgated by the Board.

28 (D) The Council may establish by ordinance, and the Board of Water Commissioners for
29 bargaining units made up of the Board's employees may establish by rules and regulations, a
30 process for bargaining-eligible employees to join a bargaining unit, or to clarify which employees are
31 included in a bargaining unit, once formed.

32 **§ 9.10.5 - Selection and recognition of bargaining agent.**

33 (A) The bargaining agent shall be the sole and exclusive representative of all members of

1 a bargaining unit if, of the members voting in an election, a majority vote for such bargaining agent.

2 (B) On and after May 1, 2025, questions concerning the selection or removal of any
3 bargaining agent may be raised by petition of any member of the bargaining unit if such petition is
4 signed by at least thirty-three (33) percent of the bargaining unit. Such a petition may be submitted
5 to an arbitration association for the purposes of an election as provided in this Section.

6 (C) No petition for the selection or removal of a bargaining agent may be filed within twelve
7 (12) months of the bargaining agent's certification after an election. Additionally, no petition may be
8 filed during the term of any existing agreement between the City and the bargaining agent except
9 during the period from November 1st to November 30th of the year preceding the final year of the
10 agreement.

11 (D) When a petition is filed concerning the selection or removal of a bargaining agent, the
12 arbitration association shall determine whether it contains the requisite number of signatures. If the
13 petition has the requisite number of signatures, the arbitration association shall determine the
14 question of the selection or removal of any bargaining agent by holding a secret ballot election of the
15 employees in the bargaining unit and certifying in writing the results thereof to the applicable
16 Corporate Authority and the person, persons, and employee organizations involved. In an election
17 where none of the choices on the ballot receives a majority of the votes cast, the arbitration
18 association shall conduct a runoff election with the names of the employee organizations receiving
19 the highest and the second highest number of ballots cast in the election appearing on the ballot.

20 (D) The secret ballot election and any required runoff shall be conducted as provided in
21 ordinance, or in the case of secret ballot elections for employees of the Board of Water
22 Commissioners, by rules and regulations promulgated by the Board. The cost of running the election
23 shall be borne equally by each employee organization on the ballot.

24 **§ 9.10.6 - Procedures for collective bargaining; obligation to bargain in good faith.**

25 (A) Procedures to begin the bargaining process and the schedule for bargaining shall be
26 as provided in ordinance, or in the case of the bargaining process for employees of the Library
27 Commission or the Board of Water Commissioners, by rules and regulations or policies and
28 procedures promulgated by the respective authority.

29 (B) On and after May 1, 2025, it shall be the obligation of the respective Corporate
30 Authority and the bargaining agent to meet and bargain in good faith at all reasonable times and
31 places. This obligation shall include the duty to cause any agreements to be reduced to a written
32 contract and executed in a timely manner. Any such contract shall be for a term of not less than one
33 (1) year nor more than three (3) years, notwithstanding the provisions of Article VII of this Charter

1 relating to Budget and Finance. All collective bargaining agreements shall be effective on January
2 1st and shall terminate on December 31st.

3 **§ 9.10.7 - Unresolved issues submitted to mediation.**

4 (A) In the event that the bargaining agent and the applicable Corporate Authority are
5 unable, within forty-five (45) days from and including the date of their first meeting, to reach an
6 agreement on a collective bargaining agreement, the Corporate Authority and the bargaining agent
7 shall engage in mediation, with the cost of mediation to be borne equally by the parties.

8 (B) The Council, or the Board of Water Commissioners for mediation regarding the Board's
9 employees, shall create a permanent panel of at least three (3) mediators to decide disputes
10 pursuant to this Section, whose qualifications, terms, and method of selection shall be set forth by
11 ordinance, or in the case of mediators for the Board of Water Commissioners, by rules and
12 regulations or promulgated by the Board.

13 **§ 9.10.8 - Impasse; right to strike and lockout.**

14 (A) In the event that the bargaining agent and the applicable Corporate Authority are
15 unable, within forty-five (45) days from the final date of mediation to reach an agreement on a
16 collective bargaining agreement, the bargaining agent may submit notice of an intent to strike,
17 organize in any work stoppage, slowdown, or mass absenteeism and the Mayor, the Council, the
18 Clerk and Recorder, the Auditor, the Library Commission or Board of Water Commissioners may
19 submit notice of an intent to lockout. Notice shall be submitted at least twenty-one (21) days prior to
20 engaging in such action.

21 (B) Within fourteen (14) days of receipt of the notice of an intent to strike, organize in any
22 work stoppage, slowdown or mass absenteeism, the Mayor, the City Council, the Clerk and
23 Recorder, the Auditor, the Library Commission or Board of Water Commissioners, shall determine
24 whether the interruption of service resulting from the strike, work stoppage, slowdown, or mass
25 absenteeism from their respective employees will imminently and substantially threaten the public
26 health, welfare, or safety. For purposes of this subsection, the Mayor shall also make such
27 determination for employees of the Civil Service Commission and the Board of Adjustment. Such
28 determination shall identify which employees are prohibited from engaging in a strike, work
29 stoppage, slowdown, or mass absenteeism. Except as otherwise provided in subsection (E), such
30 determination shall be a final decision which the bargaining agent may appeal to County Court, using
31 standards and procedures as provided in ordinance.

32 (C) Upon a finding that all of the employees in an applicable bargaining unit are prohibited
33 from striking because the interruption of service resulting from the strike, work stoppage, slowdown,

1 or mass absenteeism will imminently and substantially threaten the public health, welfare, or safety,
2 or upon the exhaustion of judicial review or failure to seek judicial review of such a determination as
3 provided in ordinance, the parties shall submit to binding arbitration on any unresolved issues using
4 the panel created by the Council or the Board of Water Commissioners, pursuant to Section 9.10.4,
5 as applicable. The arbitrator may apply the standards commonly used in interest disputes but shall
6 rely predominantly on the following in arriving at a decision:

7 (i) The interests and welfare of the public and the financial ability of the City to bear the
8 costs involved or with regard to bargaining units of the Board of Water Commissioners, the
9 criteria set forth in Section 10.1.9 of this Charter;

10 (ii) Comparison of the compensation, benefits, hours, and other terms and conditions of
11 employees in the bargaining unit with other public employees with substantially similar job duties in
12 comparable communities nationally and locally. However, while the arbitrator may consider such
13 comparisons in making a decision, in no event shall the arbitrator make an award that is indexed or
14 otherwise expressed as a relationship to the terms and conditions of employees who are not
15 members of the bargaining unit; and

16 (iii) The cost of living.

17 The award of the arbitrator on each issue shall be the final offer of the Corporate Authorities or the
18 final offer of the bargaining agent and the arbitrator shall state the reasons for the award in writing.

19 (D) The timeline and procedure for final offers and arbitration under this Section shall be
20 set forth by ordinance, or in the case of arbitration for employees of the Board of Water
21 Commissioners, by rules and regulations promulgated by the Board.

22 (E) Notwithstanding the provisions of this Section, upon receipt of a complaint filed by the
23 City and County of Denver, or the City and County of Denver acting by and through its Board of
24 Water Commissioners, at any time, the County Court may issue an order requiring employees back
25 to work upon a finding that the interruption of service resulting from the strike, work stoppage,
26 slowdown, or mass absenteeism will imminently and substantially threaten the public health, welfare,
27 or safety, using standards and procedures as provided in ordinance. Such determination shall
28 identify which employees are prohibited from engaging in a strike, work stoppage, slowdown, or
29 mass absenteeism.

30 (F) Nothing in this Part 10 shall prohibit the applicable Corporate Authority and the bargaining
31 agent from negotiating and voluntarily accepting terms of an agreement prior to or during the period
32 of any strike, work stoppage, slowdown, mass absenteeism, or lockout.

33 **§ 10.1.6 - Manager and personnel.**

1 The property and personnel under control of the Board shall be referred to generally as Denver
2 Water. The Board shall designate a Manager, who shall cause the Board's policies and orders to be
3 executed and shall bring to the Board's attention matters appropriate for its action. The Board shall
4 have power to employ such personnel, including legal staff, and ~~fix the classifications thereof~~ as it
5 may deem necessary. The classifications of all such employees shall be fixed by the Board or in
6 accordance with collective bargaining agreements. All such personnel shall be hired and dismissed
7 on the basis of merit or in accordance with collective bargaining agreements and subject to the right
8 to strike set forth in Section 9.10.8. The Board shall define the duties of each of its employees and
9 fix the amount of their compensation except employees whose duties and compensation are set in
10 accordance with collective bargaining agreements. It shall be the duty of the Board to carry out the
11 intent and requirements of Article XX of the Constitution of the State of Colorado with respect to civil
12 service for public utilities and works and to perform the customary functions of a Civil Service
13 Commission with respect to its employees. In performing the functions of a Civil Service
14 Commission, the Board or its designee shall have the power to conduct hearings, administer oaths
15 and issue subpoenas enforceable in the County Court of the City and County of Denver. The Board
16 may establish classifications of employment for persons outside the civil service system who serve
17 solely at the pleasure of the Board except as otherwise provided in a collective bargaining agreement
18 and subject to the right to strike set forth in Section 9.10.8. Such employees shall include the number
19 of temporary employees the Board deems necessary and not more than 2 percent of all
20 regular employees of the Board.

21
22 **Effective upon publication and filing with the Secretary of State in accordance with the**
23 **Constitution and laws of the State of Colorado, the following sections of the Charter of**
24 **the City and County of Denver are amended to read as follows:**

25
26 **Section 2.** The ballot shall contain the following title and submission clause:

27
28 **REFERRED QUESTION _____**

29
30 Shall the Charter of the City and County of Denver be amended to establish collective
31 bargaining as the method for setting compensation and other terms and conditions of
32 employment, including hours, working conditions, promotions, demotions, employee facilities,
33 disciplinary procedures, and benefits other than participation in the City's retirement program,

1 for non-supervisory city employees who are included in a bargaining unit, which may include
2 employees of executive agencies and departments under the Mayor, and employees of
3 Denver Water, the Denver Library, the City Council, the County Court, the Civil Service
4 Commission, the Board of Adjustment and certain employees of the Auditor and Clerk and
5 Recorder, but may not include employees who participate in forming management positions
6 during labor negotiations, and shall the same employees be granted the right to strike in the
7 event of an impasse in bargaining negotiations only if mediation does not resolve the impasse
8 and such strike will not imminently and substantially threaten the public health, welfare, or
9 safety; and shall the terms and provisions of a collective bargaining agreement with the
10 Denver Sheriffs supersede conflicting city personnel rules and policies?

11
12 **Section 3.** The proper officials of the City and County of Denver as are charged with duties
13 relating to the election shall, before the election, issue such calls, make such certifications and
14 publications, give such notices, make such appointments, and do all such other acts and things in
15 connection with the submission of this Charter amendment to the registered electors of the City and
16 County of Denver at the election as are required by the Constitution and laws of the State of Colorado
17 and the Charter and ordinances of the City and County of Denver.

18 **Section 4.** Pursuant to Section 31-2-210(4) of the Colorado Revised Statutes, the Clerk
19 and Recorder is directed to publish a notice of the City's special election and to include in that
20 notice the full text of the proposed amendments as stated in this Ordinance. Such notice is to be
21 published within thirty (30) days of the adoption of this Ordinance and not less than sixty (60) days
22 nor more than one hundred twenty (120) days before said election.

23 **Section 5.** The ballots cast at such election shall be canvassed and the results ascertained,
24 determined, and certified in accordance with the requirements of the Constitution and laws of the
25 State of Colorado and the Charter and ordinances of the City and County of Denver.

26 **Section 6.** If any section, paragraph, clause, or other portion of this ordinance is held to be
27 invalid or unenforceable for any reason, the validity of the remaining portions of this ordinance shall
28 not be affected.

1 COMMITTEE APPROVAL DATE: June 4, 2024

2 MAYOR-COUNCIL DATE: June 11, 2024

3 PASSED BY THE COUNCIL _____

4 _____ - PRESIDENT

5 APPROVED: _____ - MAYOR _____

6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER

9 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ ; _____

10 PREPARED BY: Anshul Bagga, Assistant City Attorney DATE: June 20, 2024

11

12 Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office of the
13 City Attorney. We find no irregularity as to form and have no legal objection to the proposed
14 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to
15 § 3.2.6 of the Charter.
16

17 Kerry Tipper, City Attorney

18

19 BY: Anshul Bagga City Attorney DATE: Jun 20, 2024