

Charter Amendment Referral for Collective Bargaining for City and County of Denver Workers

Councilmembers: Gonzales-Gutierrez, Hinds, Lewis, Parady
May 20, 2024



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Collective bargaining is good for workers and the public



Collective bargaining is in the public interest. When public workers have the ability to collectively address workplace issues they are better able to advocate for the public they serve.

- ➡ Raises the wages and benefits more for low-wage workers than for middle and high-wage workers, thereby lessening wage inequality
- ➡ Raises wages and benefits more for Black, Asian, Latino/a/x, and immigrant workers, thereby lessening race/ethnic wage gaps
- ➡ Higher wages, higher health insurance coverage, higher pension coverage, and more time off to spend with their families

(Source: Economic Policy Institute)

Unions can reduce the public-sector pay gap

Economic Policy Institute (2021)

What this report finds: States where local government workers have stronger collective bargaining rights have smaller public-private pay gaps.

Why it matters: Closing the public-sector pay gap especially helps Black workers and women, who are overrepresented among local government workers. Unions reduce inequality, promote social mobility, and advocate for better public services.

News from EPI

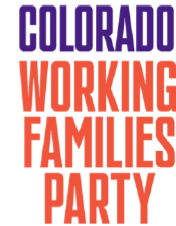
Collective bargaining rights would help narrow the pay gap for local government workers in Colorado

Press Releases • March 14, 2022

An **EPI report** finds that states like Colorado, where public employee bargaining rights have been weak or nonexistent, have lower union membership and larger public-sector pay gaps than states with strong bargaining rights. Specifically, local government workers in Colorado earned 19.2% less than their private-sector peers in 2015–2019.



Union and labor support



May 16, 2024

Dear Mayor Johnston and Councilmembers,

We write to ask for your support for putting municipal collective bargaining on the ballot this fall. As labor organizations representing essential workers across Denver, **we are united in a common goal to secure the fundamental right for our city's municipal workers to join together in unions and collectively bargain.** Between our organizations, we represent thousands of working people across our city, including hundreds of City and County of Denver workers who choose to pay dues even without collective bargaining rights. |

Meeting the needs of Denver's workers

Unions including the following currently represent hundreds of City and County of Denver workers who already pay union dues even without bargaining rights.

- Teamsters Local 17 and 455
- CWA Local 7799 and District 7
- CO Working Families Party
- CO AFL-CIO
- SEIU Local 105
- Denver Area Labor Federation

There are approximately 3,500 Denver employees who currently have bargaining rights. This includes approximately 1600 police officers, 1000 fire fighters, and 850 deputy sheriffs. These employees are about a quarter of the total City and County of Denver workforce.

The remainder of the City and County of Denver employees do not have collective bargaining rights.

Collective bargaining for City and County of Denver workers is long overdue.

Denver is a solitary outlier among peer cities. Municipal workers in all of the below cities have collective bargaining rights:



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Charter amendment referral means Denver voters decide

If the charter amendment is successfully referred to the November 2024 ballot, voters will decide whether to grant certain employees of the City and County of Denver the rights to collectively bargaining.

It requires a majority vote at the ballot to pass.

Denver is expecting an 80-90% voter turnout at this election, approaching record levels.



How do collective bargaining rights work?

Collective bargaining rights give Denver employees the opportunity to vote for or against union representation if at least 33% of them want to pursue such a vote.

If the majority of voters in an appropriate bargaining unit vote for union representation, they will go into negotiations with the city.

When the parties come to an agreement, the workers must vote to approve, or ratify, the Collective Bargaining Agreement before it goes into effect.



Collective bargaining means employees and their employer sit down to negotiate and come to an agreement on terms and conditions of employment.



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Eligible employees

- Includes all employees we can reach under city charter
- **This list includes:** all career service employees, and employees of the City Council, Library Commission, Civil Service Commission, Board of Adjustment, and Denver Water.

- **This list excludes:** members of police, fire, and sheriff's departments who already have collective bargaining rights and career service employees of the Denver Health and Hospital Authority. All supervisory and confidential employees are also excluded from collective bargaining units. Additionally, certain political appointees and electeds are excluded per 9.1.1(E).

Relevant Definitions - Employees

Confidential employees

“an employee who assists and acts in a confidential capacity to persons who formulate, determine, and effectuate management policies in the field of labor relations.”

- captures employees who have inside information on the city side about bargaining and union matters

Supervisory employees

"any employee having authority . . . to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment."

Subjects of bargaining

Bargaining-eligible employees shall have the right to bargain collectively in such negotiations as to:

- "wages and compensation,
- rates of pay,
- benefits,
- dependent benefits,
- promotions and demotions,
- hours,
- working conditions,
- employee facilities,
- paid time off,
- leave,
- grievance procedures,
- disciplinary procedures,
- and other terms and conditions of employment consistent with the provisions in this charter and state and federal law."



Unresolved issues, impasse, and strike

*Flowchart of this process follows on
the next slide*

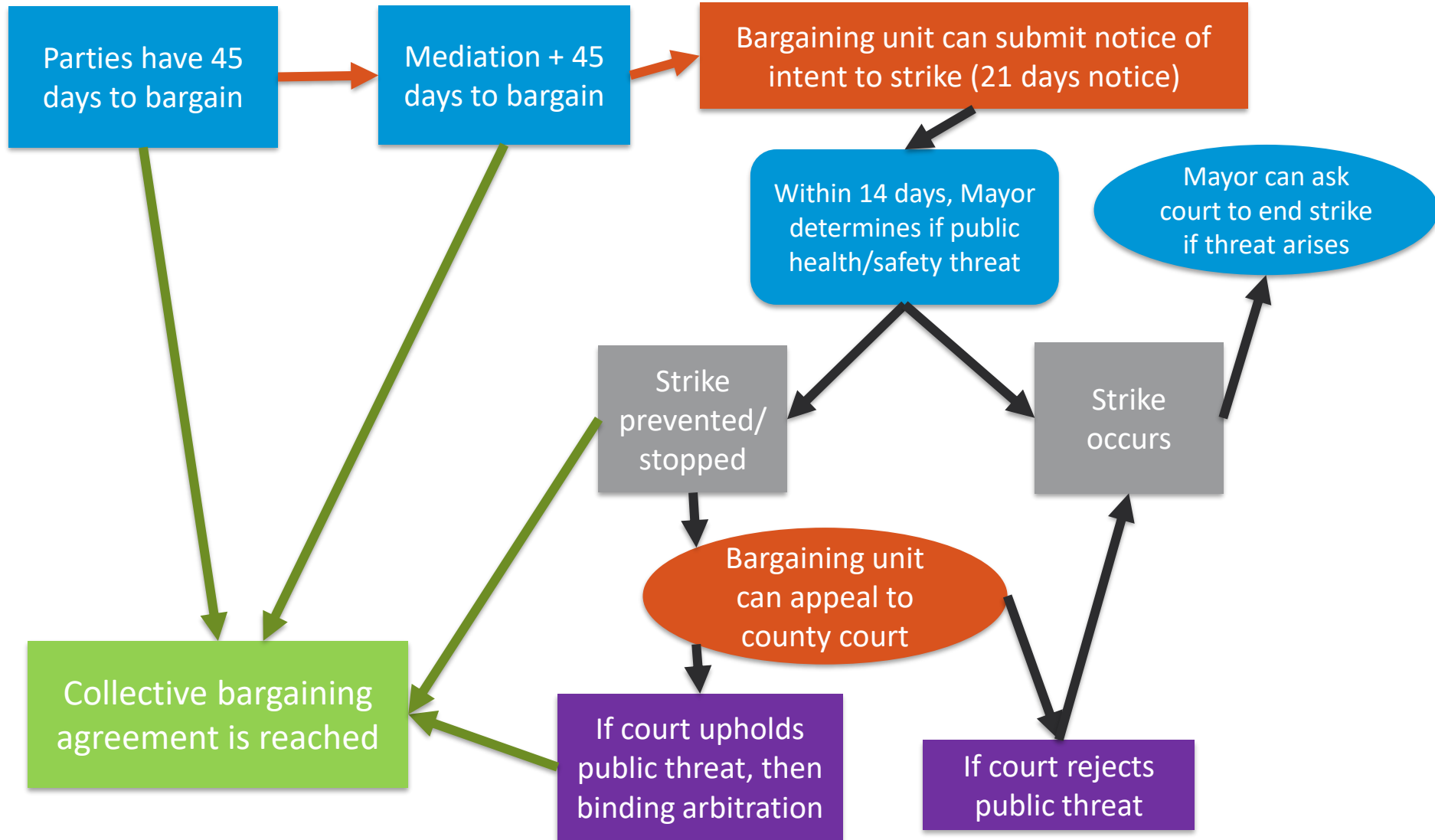
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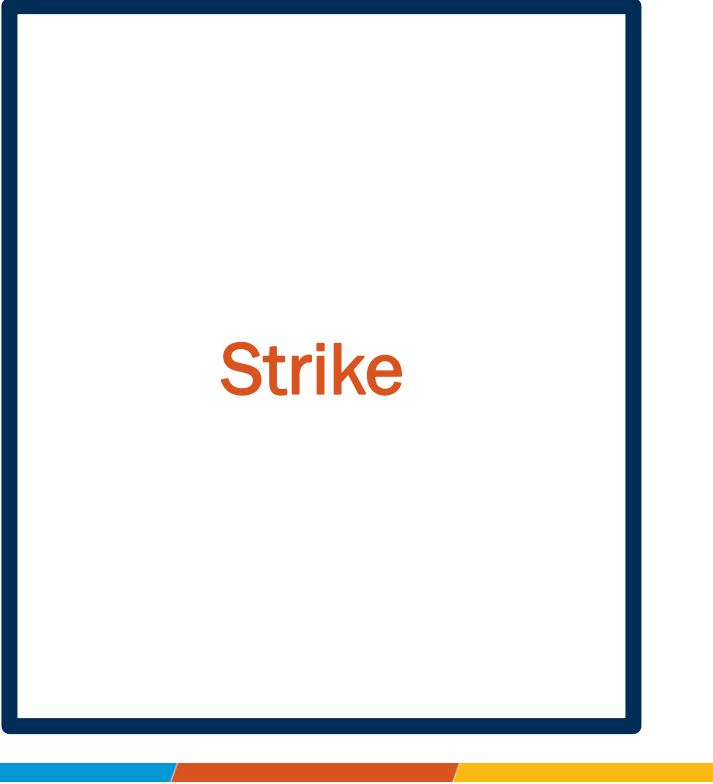
- 45 days for parties to bargain
- If an agreement has not been reached, then parties engage in mediation
- 45 days after mediation to reach agreement
- If an agreement has not been reached, then bargaining unit can submit notice of intent to strike (21 days notice)
- Within 14 days, the Mayor or relevant authority will determine if the interruption due to strike will threaten public health or safety. This determination is a final decision that can prevent the strike and send the parties into binding arbitration to come to an agreement.
- The bargaining agent may appeal this decision to County Court.



Impasse process

↑ = unsuccessful





Strike

The Mayor shall determine whether the interruption of service resulting from the strike **"will imminently and substantially threaten the public health, welfare, or safety."**

- Such determination shall be a final decision which the bargaining agent may appeal to County Court.
- The Library Commission and Board of Water Commissioners have this same authority for their respective employees.



Other examples

Washington DC

- In 2022 the city signed a 4-year agreement with unions representing city employees – spans 11,000 employees, 20 local unions
- The agreement includes a 3.5% bonus in FY 2022, a 2.5% pay raise in FY 2023, and a 3% raise in FY 2024 and 2025.

San Francisco

- California state law grants the right to strike for all city employees but allows this right to be waived in bargaining. The only exception is for public health and safety.
- SF employees currently engaged in bargaining.

Illinois

- Public employees gained CB rights in 2005, with strike rights restored in 2021
- Strikes constituting a clear and present danger to public health and safety are illegal
- Mediation and five days' notice are required
- Over 2,000 Chicago Park District workers authorized a strike in March but reached agreement before strike, securing \$20 min wage, among other things.



Questions?

A BILL

For an ordinance submitting to a vote of the qualified and registered electors of the City and County of Denver at the special municipal election on November 5, 2024, a proposed amendment to the Charter of the City and County of Denver to establish collective bargaining as the method for setting compensation and other terms and conditions of employment for certain city employees including employees of Denver Water and the Denver Library and allowing a qualified right to strike in the event of an impasse in bargaining negotiations.

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

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

§ 1.2.15 - Pay periods.

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

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

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

§ 9.1.1 - Career Service personnel system.

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

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

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

PART 10. - COLLECTIVE BARGAINING; CERTAIN CITY EMPLOYEES

§ 9.10.1 - Statement of policy.

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

§ 9.10.2 - Definitions.

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

- (A) “Bargaining agent” means an employee organization chosen by the bargaining unit pursuant to Section 9.10.5
- (B) “Bargaining unit” means a group of two or more bargaining-eligible employees as determined pursuant to Section 9.10.4 for the purposes of representation by a bargaining agent.
- (C) “Bargaining-eligible employees” means non-supervisory and non-confidential employees comprising of the Career Service as defined in Section 9.1.1 (E) and employees of the City Council, Library Commission, Civil Service Commission, Board of Adjustment, and Denver Water, but excluding Deputy Sheriffs, Deputy Sheriff Majors, Deputy Sheriff Division Chiefs, and Career service employees of the Denver Health and Hospital Authority.

(D) “Confidential employee” means an employee who assists and acts in a confidential capacity to persons who formulate, determine, and effectuate management policies in the field of labor relations.

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

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

(G) “Supervisory employee” means any employee having authority, in the interest of the Corporate Authority, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

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

(A) Bargaining-eligible employees shall have the right to bargain collectively with their respective Corporate Authority and to be represented by a bargaining agent in such negotiations as to wages and compensation, rates of pay, benefits, dependent benefits, promotions and demotions, hours, working conditions, employee facilities, paid time off, leave, grievance procedures, disciplinary procedures, and other terms and conditions of employment consistent with the provisions in this charter and state and federal law.

(B) Nothing in this Part 10 shall affect the authority of the Mayor and the cabinet to formulate the general administrative policies of the City and County, to determine which services the City and County shall provide to the public, to take actions necessary to comply with federal or state law, or take any other actions necessary to comply with the requirements of this Charter.

§ 9.10.4 - Determination of bargaining unit.

(A) An employee organization wishing to represent bargaining-eligible employees shall determine which employees share a substantial mutual interest in wages, hours, and other conditions of employment such that they share a community of interest as understood under the National Labor Relation Act, 29 U.S.C. §§ 151-169, provided, however, bargaining units for employees of the City Council, Library Commission, Civil Service Commission, Board of Adjustment, and Denver Water may only include employees of their respective appointing authority.

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

(C) The Council shall create a permanent panel of at least three (3) arbitrators to decide disputes pursuant to this section, whose qualifications, terms, and method of selection shall be set forth by ordinance.

§ 9.10.5 - Selection and recognition of bargaining agent.

(A) The bargaining agent shall be the sole and exclusive representative of all members of a bargaining unit if the majority of the members of the bargaining unit voting in an election vote for such bargaining agent.

(B) Questions concerning the selection or removal of any bargaining agent may be raised by petition of any member of the bargaining unit if such petition is signed by at least thirty-three (33) percent of the bargaining unit. Such a petition may be submitted to an arbitration association for the purposes of an election as provided in this Section.

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

(D) When a petition is filed concerning the selection or removal of a bargaining agent, the arbitration association shall promptly send the petition to the Career Service Board for determination of whether it contains the requisite number of signatures. The Career Service Board shall promptly make that determination and notify the arbitration association of its conclusion. If the petition has the requisite number of signatures, the arbitration association shall determine the question of the selection or removal of any bargaining agent by taking a secret ballot of the employees in the bargaining unit and certifying in writing the results thereof to the applicable Corporate Authority and the person, persons, and employee organizations involved. In an election where none of the choices on the ballot receives a majority vote, the arbitration association shall conduct a runoff election with the names of the bargaining agents receiving the highest and the second highest number of ballots cast in the election appearing on the ballot.

(D) The secret ballot election and any required runoff shall be conducted as provided in ordinance, or in the case of elections for employees of the Library Commission or Denver Water, by rules and regulations or policies and procedures promulgated by the respective authority. The cost of running the election shall be borne equally by each employee organization on the ballot.

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

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

(B) It shall be the obligation of the respective Corporate Authority and the bargaining agent to meet and bargain in good faith at all reasonable times and places. This obligation shall include the duty to cause any agreements to be reduced to a written contract and executed in a timely manner. Any such contract shall be for a term of not less than one (1) year nor more than three (3) years, notwithstanding the provisions of Article VII of this Charter relating to Budget and Finance. All collective bargaining agreements shall be effective on January 1st and shall terminate on December 31st.

§ 9.10.7 - Unresolved issues submitted to mediation.

(A) In the event that the bargaining agent and the applicable Corporate Authority are unable, within forty-five (45) days from and including the date of their first meeting, to reach an agreement on a collective bargaining agreement, the Corporate Authority and the bargaining agent shall engage in mediation, using standards and procedures established by ordinance, or in the case of disputes regarding bargaining units for employees of the Library Commission or Denver Water, by rules and regulations or policies and procedures promulgated by the respective authority.

(B) The Council shall create a permanent panel of at least three (3) mediators to decide disputes pursuant to this section, whose qualifications, terms, and method of selection shall be set forth by ordinance.

§ 9.10.8 - Impasse; right to strike and lockout.

(A) In the event that the bargaining agent and the applicable Corporate Authority are unable, within forty-five (45) days from the final date of mediation to reach an agreement on a collective bargaining agreement, the bargaining agent may submit notice of an intent to strike, organize in any work stoppage, slowdown, or mass absenteeism and the Corporate Authority may submit notice of an intent to lockout. Notice shall be submitted at least twenty-one (21) days prior to engaging in such action.

(B) Within fourteen (14) days of receipt of the notice of an intent to strike, organize in any work stoppage, slowdown or mass absenteeism, the Mayor, for employees comprising the Career Service as defined in Section 9.1.1 (E), employees of the City Council, employees of the Civil Service Commission, or employees of the Board of Adjustment, or the Library Commission or Board of Water Commissioners for their respective employees, shall determine whether the interruption of service resulting from the strike, work stoppage, slowdown, or mass absenteeism will imminently and substantially threaten the public health, welfare, or safety. Except as otherwise provided in Subsection (D), such determination shall be a final decision which the bargaining agent may appeal to County Court, using standards and procedures as provided in ordinance.

(C) Upon a finding that the interruption of service resulting from the strike, work stoppage, slowdown, or mass absenteeism will imminently and substantially threaten the public health, welfare, or safety, or upon the exhaustion of judicial review or failure to seek judicial review of such a determination as provided in ordinance, the parties shall submit to binding arbitration using the panel created in Section 9.10.4, or in the case of arbitration for employees of the Library Commission or Denver Water, by rules and regulations or policies and procedures promulgated by the respective authority. The procedure for arbitration under this Section, and the standards used by the arbitrator, shall be set forth by ordinance, or in the case of arbitration for employees of the Library Commission or Denver Water, by rules and regulations or policies and procedures promulgated by the respective authority.

(D) Notwithstanding the provisions of this Section, upon receipt of a complaint filed by the City or the City and County of Denver, acting by and through its Board of Water Commissioners, at any time, the County Court may issue an order requiring employees back to work upon a finding that the interruption of service resulting from the strike, work stoppage, slowdown, or mass absenteeism will imminently and substantially threaten the public health, welfare, or safety.

(E) Nothing in this Part 10 shall prohibit the applicable Corporate Authority and the bargaining agent from negotiating and voluntarily accepting terms of an agreement prior to or during the period of any strike, work stoppage, slowdown, mass absenteeism, or lockout or prior to a final decision by an arbitrator.

§ 10.1.6 - Manager and personnel.

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

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

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

REFERRED QUESTION _____

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

Section 4. The ballots cast at such election shall be canvassed and the results ascertained, determined, and certified in accordance with the requirements of the Constitution and laws of the State of Colorado and the Charter and ordinances of the City and County of Denver.

Section 5. If any section, paragraph, clause, or other portion of this ordinance is held to be invalid or unenforceable for any reason, the validity of the remaining portions of this ordinance shall not be affected.