

EDITOR'S PICK

Public employee collective bargaining bill narrows focus to counties, higher education

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Rob Gould, center left, a special education teacher and lead Denver Classroom Teachers Association negotiator, and Henry Roman, center right, president of the teachers union, speak to teachers during a strike rally on the west steps of the State Capitol Monday, Feb. 11, 2019, in Denver. The strike was the first for teachers in Denver since 1994 and centers on base pay. (AP Photo/David Zalubowski)

David Zalubowski

A collective bargaining bill for public employees in the works for the past two sessions continues to draw strong opposition from local governments and public higher education institutions.

But in recent weeks, negotiations between Gov. Jared Polis, who opposed the legislation's concepts as contained in early drafts, and bill sponsors have resulted in narrowing down the list of public sector employees who could engage in collective bargaining with their employers.

A 2021 draft obtained by Colorado Politics, which was the starting point for the 2022 legislation, said public employees would be allowed to unionize, collectively bargain, communicate with unions and other public employees, participate in the political process, have exclusive representation at formal discussions on grievances or personnel policies and practices, and be able to post information on unions in the employer's facilities. In addition, joining a union would be optional.

The original draft said collective bargaining would be available to any public sector employee who wants to join a union – special districts, K-12 education, higher education, and local governments, including municipalities and counties.

But a Feb. 25 letter to Polis from Colorado Counties, Inc., which represents 62 out of the state's 64 counties, pointed out the legislation now appears to apply only to counties and higher education. Most notably, public education has been left out.

Colorado Education Association president Amie Baca Oehlert said collective bargaining should extend to teachers.

"As a member of the collective bargaining bill coalition, the 39,000 members of the Colorado Education Association believe that the state legislature should introduce and pass a bill that creates a legal obligation for employers to recognize a union and bargain with that union in places where the majority of workers have opted to unionize," Oehlert said.

"This fundamental right mirrors what already exists for private sector workers through the National Labor Relations Act and was recently expanded to Colorado state level workers through state legislation last year. We fundamentally believe that workers should have a right to bargain their pay, benefits and working conditions and a bill to that end should benefit all public workers in the state. For public school workers, it is paramount for us to have these protected rights as our working conditions are our students' learning conditions," Oehlert added.

The county association, however, wants out of the bill, according to its letter.

"It is wholly inequitable to burden just the counties with this collective bargaining obligation. It has the potential to make hiring and retaining people in a post-COVID world even more difficult, especially as we compete with our municipalities for a limited pool of public sector employees," the group wrote in the letter.

Kevin Bommer, executive director of the Colorado Municipal League, said while municipalities appear to be excluded, his group also still opposes the bill and will work to defeat it.

The county association's letter also pointed to budgetary effects, an issue the state's community college system also raised.

Former Lt. Gov. and Democrat Joe Garcia, now chancellor of the Colorado Community College System, raised the cost issue with sponsors in a February 18 letter, as well as just how many individual bargaining units could be formed on each college campus.

Garcia's community college system includes 13 colleges on 38 campuses. The bill places no limits on the number of collective bargaining units that could be set up on each college campus, which could range from one collective bargaining unit for each campus to separate units for adjunct faculty, full-time faculty and professional staff, known as unclassified or exempt employees, to distinguish them from classified employees, who are part of the state personnel system.

The bulk of those employees are what's known as adjunct faculty – temporary, contract employees who teach just a few courses.

According to one study, adjunct faculty comprise 50% of classroom instructors. They're considerably cheaper to hire and receive no benefits and receive as low as \$2,000 per course. In 2020, Inside Higher Ed cited a report from the American Federation of Teachers, which backs the collective bargaining bill, that said about 25% of adjunct faculty live in poverty.

Information provided to lawmakers last week from the community college system point out the following:

- Adjunct faculty have sought an increase in their pay by \$1,000 per course. That would cost the community college system about \$21.6 million in additional salary and benefits. It would necessitate either an 8.4% increase in resident tuition or laying off 300 staff.
- To raise instructor pay to the equivalent of full-time faculty would require \$53.2 million, with a 20.6% increase in resident tuition or layoffs of 750 staff.

Both are predicated on the assumption that the General Assembly would not kick in more general fund support to offset those costs. Those costs also don't take into account what the community colleges would have to shell out to cover the administrative expenses of managing multiple collective bargaining units and agreements, which they estimated at \$10 million annually. Community colleges "do not operate in a collective bargaining

environment and would require new positions to meet these new demands – labor relations negotiators and trainers, legal counsel with labor relations experience, administrative support, and IT support," according to a letter Garcia and the presidents of the community colleges sent to lawmakers last month.

The letter asked that the community college system be exempted from the bill. And if community colleges were included, the letter asked for just one collective bargaining unit per employer – such as for the entire system – or exempt the adjunct faculty from the bill.

A Feb. 28 letter from all but one of the state's public colleges and universities echoed the same points.

"Public institutions of higher education would experience unique challenges to implement such a policy, especially given the wide variation in their operating and governance structures, missions, student populations and employee mix. A collective bargaining policy applied uniformly across the higher education ecosystem would likely have inequitable and unintended consequences," the institutions said in the letter.

Those consequences included tuition increases, administrative costs and potential loss of student financial aid, the letter said. The one college that did not sign onto the letter, which went to the governor and lawmakers, was Metropolitan State University of Denver.

The other sticking point is for critics is the ability to strike.

The 2020 law granting collective bargaining rights to state employees prohibited strikes, but the drafts, including one from January 2022, does not include that prohibition.

A letter from a coalition of education, local government organizations and chambers of commerce pointed out the cost issue, as well.

The 2020 law for state employees estimated implementation costs at \$8 million per collective bargaining unit. Taxpayers will have to bear that cost at a time when families and businesses are already struggling, the coalition said.

According to [Colorado Public Radio](#), 15 of Colorado's 272 municipalities have collective bargaining agreements, mostly with police and firefighters. According to a [2014 ballot measure](#), roughly 39 of the state's 178 school districts — mostly large districts, such as Denver and Jefferson County — have collective bargaining agreements.

While the coalition said it does not oppose the idea of collective bargaining, it disagrees with the position of the General Assembly to impose a "new unfunded mandate" and insert itself into local government, school employment and budgetary matters that it says are reserved for employers, employees and voters.

"[The bill's proponents] have provided no evidence that such a massive shift in public policy in Colorado is in any way warranted or justified and no compelling reason to insert itself into the employment matters of others," the letter stated. "It is especially egregious there will be no effort at the state level to compensate impacted entities for fiscal impacts of this new unfunded mandate."

Polis, through a spokesman, said only that "we're continuing conversations with proponents and impacted stakeholders."

House Majority Leader Daneya Esgar, D-Pueblo, one of the bill's sponsors, told Colorado Politics recently that sponsors have engaged in conversations with all stakeholders with the intention to provide Colorado workers "with the rights they need."

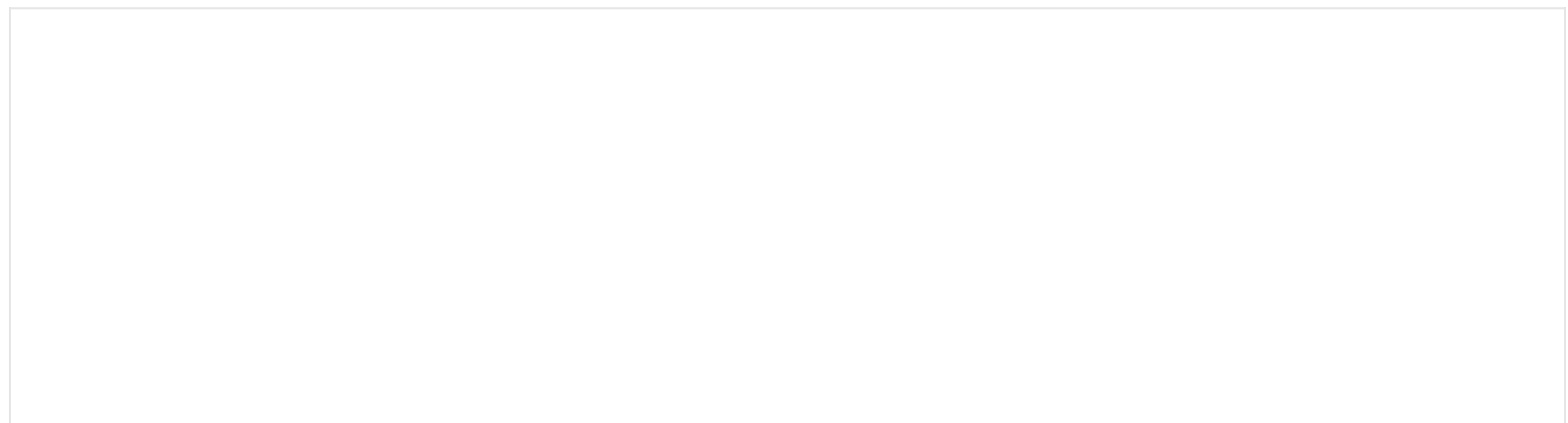
"We're hearing from the governor his concerns and from workers that we have to get this passed," Esgar said.

Several sources said they haven't seen a draft of the bill since late last year, and that they haven't been included in recent negotiations, which appear to be taking place only between Polis and the sponsors.

Unions, such as American Federation of Teachers, Colorado Education Association, and American Federation of State, County and Municipal Employees, stand to benefit from the bill.

There are 29 public colleges and universities in Colorado, employing more than 16,000 full-time and part-time faculty and more than 55,000 staff as of 2017-18, [according to the Southern Regional Education Board](#). Public schools in Colorado employ more than 52,000 teachers, according [2017 data](#) from the National Center for Education Statistics.

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