

Existing State Approach HB20-1153, Colorado Partnership for Quality Jobs & Services Act		Proposed Public Employers Approach UPDATED Bill Draft 11.10.2021, Public Employee Collective Bargaining
Organization		
Recognition/Election Process	State Personnel Director & Division of Labor Standards and Statistics shall promulgate rules	Outlined & Prescribed in Bill (Arbitrator oversees process)
Multiple Units	Single Statewide Unit with bargaining occurring at statewide level (with the exception of certified employee organizations formed prior to enactment of this legislation)	n/a
Treatment of Existing Units	DLSS recognizes the employee organization previously certified, until/unless it is decertified	Bargaining Units & Employee Organizations/Exclusive Representatives existing prior to January 1, 2022 remains; C.B. Agreements that include compensation and an impasse resolution with a vote of citizens or binding interest arbitration OR contains an impasse resolution with a vote of citizens or binding interest arbitration MUST BE re-negotiated within one year
Decertification		Prescribed

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Employee: Rights		
Self Organize, form, join or assist an employee organization	Yes	Yes
Engage in the process & activities of the partnership/collective bargaining process	Yes	Yes
Refrain from activities of employee org.	Yes	Yes
Communicate with each other and employee organization concerning the organization	Yes (includes e-mail communication, subject to reasonable restrictions)	Yes (includes e-mail communication, so long as does not interrupt operations)
Opt Out of personal information being shared with Employee Organization (home address, home/cell phone number, and personal e-mail address)	Yes	Yes
Negotiate Collectively or address grievances	not exclusive	Yes
Informed annually by employer of rights	not exclusive	Yes
Include Managers or Supervisors	Prohibited from participating (not considered a "covered employee")	Not prohibited from participating ("does not limit the right of Managers & Supervisors from being a member" of the bargaining unit)
Be represented by an exclusive representative for personnel matters	Optional for personnel actions	Yes (Available at discussions concerning grievances, personnel policy or practice, or other general conditions of employment OR examination of public employee if employee reasonably believes may result in disciplinary action)
Grounds for Employee Disciplinary Action/Termination	n/a	Prohibits disciplinary action without Just Cause
Definition of Employee	Covered Employee: "Employee employed in the personnel ssystem of the state...unless" confidential, managerial, executive, director, Judges & hearing officers, state troopers, employees of Legislative Branch, temporary appointees)	Public Employee: "person employed by a public employer..."

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Employee Organization/Exclusive Representative: Rights, Duties & Prohibitions		
Access to employees at work	Yes (determined in partnership agreement; includes reasonable access to electronic communications)	Yes (Employer shall allow the Employee organization to engage at employer sponsored events for membership recruitment; communicate over public employee e-mail; access employer's facilities; access bulletin boards)
Represent interests of all employees w/out membership discrimination	Duty	n/a
Negotiate Partnership Agreements that apply equally to all covered employees, regardless of membership	Duty (provision does not limit a partnership agreement that also covers department or agency specific issues)	n/a
Represent covered employees in personnel actions (upon request of employee)	Not Required	Yes
Make threats to strike, work stoppage, work slowdown, group sick out or any other action disrupting day to day function	Prohibited	n/a
Interfere with, restrain, or coerce a public employee	Prohibited	Prohibited
Refuse to bargain w/ the public employer	Not Explicit (but required to bargain in Good Faith)	Prohibited
Fail to fairly represent an employee who is in a bargaining unit (i.e. exclude representation of any member fo the bargaining unit)	Prohibited	Prohibited
Provide legal, economic or job-related services/benefits beyond the C.B. Agreement	n/a	Allowed
Exclusive Rep. provide representation to non-member employees during employer examination	n/a	Not Required
Consequences for Violation of Duties	DLSS shall award appropriate relief (such as sanctions, fines, decertification); constitute an unfair labor practice; engaging covered employees may be subject to disciplinary action including termination	Arbitration (must be claimed within 6 moths of offense)

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Executive & Management: Rights/Protections		
Exercise any right or responsibility to an appointing authority, the director, or the State Personnel Board	Unimpaired	n/a
Determine & Carry out any mission, initiative, task force, agenda, policy, or program	Unimpaired	n/a
Establish & Oversee Budget, Finances, & Accounting	Unimpaired	n/a
Determine Utilization of Technology	Unimpaired	n/a
Negotiate with, procure & administer contracts	Unimpaired	n/a
Make, amend & enforce or revoke reasonable personal conduct rules	Unimpaired	n/a
Take actions necessary to function during emergencies	Unimpaired	n/a
Restrict, Duplicate, or Usurp any responsibility or power granted to the Governor, Director or State Personnel Board	Prohibited	n/a

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State/Public Employer: Duties		
Payroll Deductions for Membership Dues & other payments	Yes	Yes
Provide contact information (official & personal) of each covered employee	Yes (unless employee has requested personal information not be shared)	Yes (unless employee has requested personal information not be shared)
Contact Information of Employees Confidential	Employee Organization shall treat contact information as confidential	n/a
Allow access to New Employees during work time	Yes: within 30 days of employee being hired	n/a
Allow Access durring New Employee Orientation	Yes: state must provide notice of orientations; the structure, time & manner of access should be determined in the partnership agreement	Yes: access to materials & information and given opportunity to participate (should determine in C.B. Agreement)
Sufficient Appropriations	Yes: once a partnership agreement has been reached the initial or supplemental budget request from the governor to the general assembly must include sufficient appropriations; expenses from a partnership agreement shall be contingent on the availability of funds; if the general assembly rejects the request for funds, either party may reopen negotiations concerning economic issues	Does not specifically address; however, does give arbitrator authority to issue remedies requiring public funds for implementation
Take action or make statements regarding an employee's decision to participate in/select/join an employee organization; OR refrain	Prohibited	Prohibited (may not discriminate against)
Interfere with (deter, discourage, restrain, or coerce) covered employees from exercising their right to join / views on an employee organization	Prohibited	Prohibited
Expend public money or resources for a negative campaign against an employee organization or provide assistance to engage in such campaign	Prohibited	Prohibited

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State/Public Employer: Duties (continued)		
Discharge or Discriminate against any covered employee who filed an affidavit, gave information/testimony or formed/joined/chose an employee organization; or refrained	Prohibited	Prohibited
Refuse to participate in the partnership process/negotiate collectively	Prohibited	Prohibited
Refuse to participate in good faith in any agreed upon impasse procedures/dispute resolution	n/a	Prohibited
Dominate or Interfere in the administration of an employee organization	n/a	Prohibited
Deny the rights accompanying certification as the exclusive representative	n/a	Prohibited
Refuse to reduce a collective bargaining agreement to writing and to sign the agreement	n/a	Prohibited
Disclose to a private entity, other than the exclusive representative, personally identifiable information about public employees in the bargaining unit that is exempt from disclosure	n/a	Prohibited
Bargain with an employee or group other than the exclusive representative	n/a	Prohibited
Engagement in these activities or failure to discharge duties shall result in...	an Unfair Labor Practice (exemption for Governor)	File Suit in District Court

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Partnership Agreements / Collective Bargaining Agreements		
Required to negotiate	Yes	Yes
Engage in Good Faith Negotiations	Yes	Yes (obligations defined in bill)
Binding	Yes (with approval from Governor)	Yes
Terms	n/a	Min. 12 months & Max. 60 months (5 yrs.)
Maintaining Agreement	Existing partnership agreements shall continue in full force until it is replaced by a subsequent partnership agreement	Terms of agreement remain in full force & effect without change until a successor collective bargaining agreement is agreed to & ratified
Must Include/Agree Upon	Wages, Hours, and Terms & Conditions of Employment	Prohibits disciplinary action without just cause and establish employer has burden to establish just cause
Other Subject Matters	Permissive & may be addressed upon mutual agreement of the parties	n/a
Matters impacting a single department or agency	Shall be negotiated by the C.E.O. & executive director of the department (or their designee); agreements made at the department/agency level shall be incorporated into the partnership agreement	n/a
Grievance Procedures	Must be included in partnership agreement, culminating in final and binding arbitration	Goes to Arbitration (which is Final & Binding)
Subject to CORA	Only the ratified partnership agreement (not any proposals, drafts, or tentative agreements)	n/a (only final arbitration documents are)

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Dispute / Impasse Resolution		
Definition/Terminology	Dispute Resolution: disputes arising during the formation of a partnership agreement	Impasse Resolution: If a dispute arises OR the parties fail to reach a consensus on one or more issues during the negotiation of a C.B. agreement
Prescribed Process	Either follow statute for MEDIATION or mutually agreed upon process	Either follow statute for MEDIATION then ARBITRATION or mutually agreed upon process
Timeline for Referral to Mediation	If within 90 calendar days after commencing meetings	If within 90 calendar days after commencing meetings OR within the 120 day prior to existing agreement expiring
Selection of Mediator	Mutually Agreed Upon	Mutually Agreed Upon
Mediation Cost	Shared equally	Must agree to mutual cost sharing
Mediator Decision	If after mediation, parties still disagree, parties may enter partnership agreement on resolved matters	n/a
Ongoing Mediation / Timeline for Referral to Arbitration	If within 30 calendar days mediation still ongoing; MEDIATOR will issue a recommendation	If within 30 calendar days mediation is still ongoing; then remaining issues in dispute are referred to ARBITRATION
Arbitrator Decision (Binding vs. Advisory)	n/a	Before the Arbitration hearing, the Exclusive Rep. decides final & binding or advisory; must inform the employer of their decision (firefighters & peace officers automatically final and binding)
Selection of Arbitrator	n/a	Employer creates list of nine qualified arbitrators, then parties take turns 'strking', until one remains
Proceedings of Arbitrator	n/a	Hearing; further details in bill
Arbitrator's Considerations	n/a	Interest & Welfare of public and employers ability to bear costs; demands within lawful authority of employer; stipulations of the parties; comparison of wages, hours, and conditions etc. of similar occupational groups; cost of living; evidence of failure to bargain in good faith
Continuance of Good Faith Bargaining	n/a	Parties may continue during arbitration; if a voluntarily reached agreement is discovered, arbitrator shall terminate proceedings/discoontinue consideration

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Dispute / Impasse Resolution (continued)		
Objections	n/a	Filing motion in district court; court may vacate decision if decision was obtained through corrupt, fraudulent or undue means, was arbitrary and capricious or made without consideration of prescribed factors
Enforcement	n/a	District Court
Arbitration Cost	n/a	either mutually agree or arbitrator determines share of cost
Subject to CORA	Only recommendation of Mediator	Only the final judgement of arbitrator
Arbitration		
Occurrence	Grievances regarding the C.B. Agreement (C.B. Agreement may prescribe initial process, but must culminate in final & binding arbitration)	Disputes arise must be settled through arbitration (besides the Recognition process & Impasse Resolution, arbitration procedures for those occurrences are defined in those sections)
Selection	n/a	Mutually Agree; if cannot agree, must select from list provided by the American Arbitration Assoc. & alternatively strike names
Proceedings	n/a	Hearing with Employee Organization & Employer, each presenting evidence
Decision	Final & Binding	Final & Binding
Authority	n/a	Arbitrator possesses procedural & substantive decision-making authority
Remedies	n/a	Arbitrator possess authority to issue remedies requiring public funds
Vacating Decisions	Parties may seek Judicial Review; decision may be vacated if: procured by corruption, fraud, undue means; arbitrator exceeded authority; decision/award did not draw essence from partnership agreement; violated public policy or parties denied fair hearing	District Court may vacate, if decision obtained through corrupt, fraudulent, undue menas OR arbitrary & capricious
Costs	n/a	Negotiated by parties; if cannot agree, Arbitrator decides
Subject to CORA	No	n/a

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Other Matters		
Judicial Review	May seek re--division's decisions or orders on classification of covered employees; representation or decertification petitions; division decisions on unfair labor practice; or rules or regulations issued by the division in Denver District Court	n/a
Right to Sue	n/a	Yes in District Court of proper venue
Sucessor Organizations	n/a	Future Public Employer's are subject to bill

DLSS: Division of Labor Standards & Statistics