B-1

BY AUTHORITY

ORDINANCE NO. 634 COUNCIL BILL NO. 614

SERIES OF 2009 COMMITTEE OF REFERENCE:
General Government

A BILL

For an Ordinance Establishing Paid Time Off as a Leave Benefit in Lieu of Vacation and Sick Leave for Certain Employees and Officers.

WHEREAS, City Council has determined that a Paid Time Off system of granting leave is a prevailing practice among employers in the Denver metropolitan area.

WHEREAS, City Council has determined it is necessary for employers facing budget constraints severe enough to force a reduction in payroll, a situation in which the City and County of Denver finds itself in fiscal and calendar year 2010, to limit, upon separation, the costly financial payouts on separation which occur when employees and officers accumulate large amounts of sick and vacation leave.

WHEREAS, employees and officers are strongly urged to maintain a productive and healthy balance between career and personal interests by using earned leave for vacations on an annual basis and to be attentive to their physical well being by using earned leave as needed.

WHEREAS, requests to utilize Paid Time Off leave shall be granted by office, agency, commission or department heads when those requests do not reasonably conflict with the operational needs of the employer.

WHEREAS, City Council has determined that the adoption of Paid Time Off as a leave benefit is necessary to ensure the future viability of the Denver Employees Retirement Plan.

WHEREAS, the Paid Time Off leave benefit is a voluntary option available to any officers or employees hired before January 01, 2010.

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

Section 1. That Section 18-58, D.R.M.C., shall be amended by deleting the language stricken, to read as follows:

Sec. 18-58. Benefits.

~~(a)~~ Except as otherwise provided herein, the benefits to be granted employees not in the career service shall be in conformance with this chapter, and in accordance with applicable career service rules. When the career service rules permit a waiver or exception or require the approval of the career service authority, career service personnel director, or career service board, the waiver, exception, or approval shall be the sole responsibility of the employee's appointing authority, and the approval of the career service authority, career service personnel director, or career service board shall not be required.

~~**(b) Reserved.**~~

~~(c) In lieu of receiving paid sick leave and paid vacation leave as provided in this chapter and the career service rules, employees appointed to serve at the pleasure of the mayor pursuant to Charter section 9.1.1(E)(iv) who are on unpaid leave from a career service position or who relinquish a career service position during the term of their appointment may elect to receive paid leave benefits in lieu of paid sick leave and paid vacation leave benefits in accordance with the provisions of subsection (d) of this section, or to continue receiving paid sick leave and paid vacation leave benefits provided to eligible employees under article V, divisions 1 and 2 of this chapter 18, subject to the following:~~

~~(1) An election to receive paid leave benefits in lieu of paid sick leave and paid vacation leave benefits shall be made as follows:~~

~~a. Employees appointed to serve at the pleasure of the mayor pursuant to charter section 9.1.1(E)(iv) who are on unpaid leave from a career service position shall make their election no later than December 31, 2005, if appointed prior to January 1, 2006; otherwise election shall be made prior to the effective date of appointment.~~

~~b. Employees appointed to serve at the pleasure of the mayor pursuant to charter section 9.1.1(E)(iv) who, prior to January 1, 2006, relinquished a career~~

~~service position during the term of their appointment shall make their election no later than March 31, 2006, to be applied retroactively to December 31, 2005.~~

~~c. Employees appointed to serve at the pleasure of the mayor pursuant to charter section 9.1.1(E)(iv) who, on or after January 1, 2006, relinquish a career service position during the term of their appointment shall make their election prior to the effective date of appointment.~~

~~(2) If no such election is made, the employee shall be deemed to have elected to receive paid leave benefits under the provisions of subsection (d) of this section.~~

~~(d) If elected, paid leave benefits shall be provided in lieu of paid sick leave and paid vacation leave benefits subject to the following provisions:~~

~~(1) The amount of paid leave allowed shall be calculated as follows: up to five (5) consecutive years of service, twelve (12) working hours per month; between five (5) and ten (10) consecutive years of service, fourteen (14) working hours per month; ten (10) or more consecutive years of service, sixteen (16) working hours per month; and an amount proportionate thereto shall be allowed such appointed employees working part-time.~~

~~(2) Subject to the maximum accruals as provided in subpart (3) of this subsection (d), paid sick leave credits and paid vacation leave credits shall be converted into paid leave benefits and transferred into the employing office, agency, commission or department as follows:~~

~~a. Employees appointed to serve at the pleasure of the mayor pursuant to charter section 9.1.1(E)(iv) who are on unpaid leave from a career service position and other employees not in the career service designated in subsection (e) of this section shall be entitled to convert one-half (1/2) of any accumulated paid sick leave credits and the entirety of any accumulated paid vacation leave credits earned as of December 31, 2005, or if appointed on or after January 1, 2006, the date of appointment, into paid leave benefits. The remaining one-half (1/2) of any accumulated paid sick leave credits will be forfeited.~~

~~b. Employees appointed to serve at the pleasure of the mayor pursuant to charter section 9.1.1(E)(iv) who, prior to January 1, 2006, relinquished a career service position during the term of their appointment shall be entitled to convert one-half (1/2) of any accumulated paid sick leave credits and the entirety of any accumulated paid vacation leave credits earned as of March 31, 2006 into paid leave credits. The remaining one-half (1/2) of any accumulated paid sick leave credits will be forfeited.~~

~~c. Employees appointed to serve at the pleasure of the mayor pursuant to charter section 9.1.1(E)(iv) who, on or after January 1, 2006, relinquish a career service position during the term of their appointment, shall be entitled to convert one-half (1/2) of any accumulated paid sick leave credits and the entirety of any accumulated paid vacation leave credits earned as of the date of appointment into paid leave benefits. The remaining one-half of any accumulated paid sick leave credits will be forfeited.~~

~~(3) Such paid leave may be accumulated to a limit of two hundred forty (240) working hours for up to ten (10) consecutive years of service, and three hundred sixty (360) hours for ten (10) or more consecutive years.~~

~~(4) Upon separation for any reason, employees to whom subsection (d) of this section applies shall be paid at their regular rate of pay for the unused portion of all accumulated paid leave credits up to ninety-six (96) hours for up to five (5) years of consecutive service to the city, up to two hundred forty (240) hours for between five (5) and ten (10) consecutive years of service to the city, and up to three hundred sixty (360) hours for ten (10) or more years of consecutive service to the city.~~

~~(e) The following employees not in the career service shall receive paid leave benefits in accordance with subsection (d) of this section:~~

~~(1) Employees appointed to serve at the pleasure of the mayor pursuant to Charter section 9.1.1(E)(iv) who are not on unpaid leave from a career service position or who do not relinquish a career service position during the term of their appointment; and~~

~~(2) Any employee appointed to serve at the pleasure of the career service board~~

~~pursuant to Charter section 9.1.1(E)(xii) except hearing officers.~~

~~(3) Any employee appointed to serve at the pleasure of the mayor pursuant to Charter section 9.1.1(E)(xiii) for the purpose of monitoring internal investigations and disciplinary actions in the department of public safety.~~

Section 2. That Section 18-94, D.R.M.C. shall be amended by deleting the language stricken, to read as follows:

Sec. 18-94. Appointed charter officer benefits.

Except as otherwise provided herein appointed charter officers shall receive benefits paid to or on behalf of employees by the city, in an amount not to exceed the amount established by this chapter for career service employees.

~~(a) In lieu of receiving paid sick leave and paid vacation leave as provided in this chapter and the career service rules, appointed charter officers who are on unpaid leave from a career service position or who relinquish a career service position during the term of their appointment may elect to receive paid leave benefits in lieu of paid sick leave and paid vacation leave benefits in accordance with the provisions of subsection (b) of this section, or to continue receiving paid sick leave and paid vacation leave benefits provided to eligible employees under article V, divisions 1 and 2 of this chapter 18, subject to the following:~~

~~(1) An election to receive paid leave benefits in lieu of paid sick leave and paid vacation leave benefits shall be made as follows:~~

~~a. Appointed charter officers who are on unpaid leave from a career service position of this section shall make their election no later than December 31, 2005, if appointed prior to January 1, 2006; otherwise election shall be made prior to the effective date of appointment.~~

~~b. Appointed charter officers who, prior to January 1, 2006, relinquished a career service position during the term of their appointment shall make their election no later than March 31, 2006, to be applied retroactively to December 31, 2005.~~

~~c. Appointed charter officers who, on or after January 1, 2006, relinquish a career service position during the term of their appointment shall make their election prior to the effective date of appointment.~~

~~(2) If no such election is made, the appointed charter officer shall be deemed to have elected to receive paid leave benefits under the provisions of subsection (b) of this section.~~

~~(b) If elected, paid leave benefits shall be provided in lieu of paid sick leave and paid vacation leave benefits subject to the following provisions:~~

~~(1) The amount of paid leave allowed shall be calculated as follows: up to five (5) consecutive years of service, twelve (12) working hours per month; between five (5) and ten (10) consecutive years of service, fourteen (14) working hours per month; ten (10) or more consecutive years of service, sixteen (16) working hours per month; and an amount proportionate thereto shall be allowed such appointed employees working part-time.~~

~~(2) Subject to the maximum accruals as provided in subpart (3) of this subsection (b), paid sick leave credits and paid vacation leave credits shall be converted into paid leave benefits and transferred into the employing office, agency, commission or department as follows:~~

~~a. Appointed charter officers who are on unpaid leave from a career service position and other appointed charter officers designated in subsection (c) of this section shall be entitled to convert one-half of any accumulated paid sick leave credits and the entirety of any accumulated paid vacation leave credits earned as of December 31, 2005, or if appointed after January 1, 2006, the date of appointment, into paid leave benefits. The remaining one-half of any accumulated paid sick leave credits will be forfeited.~~

~~b. Appointed charter officers who, prior to January 1, 2006, relinquished a career service position during the term of their appointment shall be~~

~~entitled to convert one-half of any accumulated paid sick leave credits and the entirety of any accumulated paid vacation leave credits earned as of March 31, 2006, into paid leave credits. The remaining one-half of any accumulated paid sick leave credits will be forfeited.~~

~~c. Appointed charter officers who, on or after January 1, 2006, relinquish a career service position during the term of their appointment, shall be entitled to convert one-half of any accumulated paid sick leave credits and the entirety of any accumulated paid vacation leave credits earned as of the date of appointment into paid leave benefits. The remaining one-half of any accumulated paid sick leave credits will be forfeited.~~

~~(3) Such paid leave may be accumulated to a limit of two hundred forty (240) working hours for up to ten (10) consecutive years of service, and three hundred sixty (360) hours for ten (10) or more consecutive years.~~

~~(4) Upon separation for any reason, appointed charter officers to whom subsection (b) of this section applies shall be paid at their regular rate of pay for the unused portion of all accumulated paid leave credits up to ninety-six (96) hours for up to five (5) years of consecutive service to the city, up to two hundred forty (240) hours for between five (5) and ten (10) consecutive years of service to the city, and up to three hundred sixty (360) hours for ten (10) or more years of consecutive service to the city.~~

~~(c) Appointed charter officers who are not on unpaid leave from a career service position or who do not relinquish a career service position during the term of their appointment shall receive paid leave benefits in accordance with subsection (b) of this section.~~

Section 3. That Divisions 1 and 2 of Article V of Chapter 18 of the Revised Municipal Code shall be repealed and re-enacted to read as follows:

DIVISION 1. PAID TIME OFF

Sec. 18-121. Purpose of providing paid time off.

The purposes of this division are as follows:

(a) To reduce the amount of costly financial payouts for large amounts of accumulated sick and vacation leave when officers or employees separate from their employment with the City and County of Denver;

(b) To provide officers or employees hired after December 31, 2009 paid leave benefits similar to those currently provided to appointed officers and to create a uniform PTO plan under which all such leave benefits shall be administered;

(c) To afford officers and employees hired before January 1, 2010 the opportunity to participate in the PTO plan by converting and placing the existing amounts of sick and vacation leave into a special leave bank not to exceed four hundred (400) hours;

(d) To allow for agencies, departments, commissions, or offices to make separation payments to officers or employees for the balance of their leave and special leave bank, each not to exceed four hundred (400) hours; and

(e) To provide an incentive for officers and employees hired prior to January 1, 2010 to participate in the PTO plan by affording them the opportunity to utilize their leave at separation in the calculation of retirement benefits for employees of the Denver Employees Retirement Plan (DERP).

Sec. 18-122. Definitions.

For purposes of this division 1, the following terms shall have the following meaning:

(a) *Employee* means any employee of the city and county of Denver within the meaning of section 1.2.11 of the Charter, including employees in the Career Service and employees not in the Career Service.

(b) *Officer* means any of the following:

(1) Elected Charter officers; Mayor, Auditor; Clerk and Recorder; and members of the City Council.

(2) Appointed Charter officers; Manager of the Department of Environmental Health, Manager of the Department of Public Works, City Attorney, Manager of the Department of Safety, Manager of the Department of Finance, Manager of the Department of Parks and Recreation, Manager of the Department of General Services, Manager of the Department of Human Services, Manager of the Department of Aviation, Manager of the Department of Community Planning and Development, and Director of Excise and Licenses.

(c) *City* means the City and County of Denver, a municipal corporation created by and operating by virtue of Article XX of the Constitution of the State of Colorado.

(d) *Paid time off (PTO) Bank* means a depository where an officer's or employee's monthly PTO leave benefit is deposited and stored for future use.

(e) *Immediate family member* means husband, wife, son, daughter, mother, father, grandmother, grandfather, grandchildren, brother, sister, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, domestic partner, and the mother, father, son, daughter, brother, or sister of the domestic partner, as well as minor children for whom the officer or employee or the officer's or employee's domestic partner provide day-to-day care and financial support.

(f) *Special Leave Bank* means a depository where an officer or employee who converts to PTO from receiving paid sick and vacation leave may store vacation leave and up to one-half of sick leave earned prior to February 1, 2010 that has been converted to PTO.

Sec. 18-123. Eligibility.

(a) All officers (elected and appointed) and employees hired or re-hired by the City after December 31, 2009 shall receive PTO as provided in this division, with the exception of:

(1) Part-time employees who are regularly scheduled to work less than twenty (20) hours per week;

(2) Members of the classified service of the police and fire departments;

(3) Employees in the deputy sheriff classifications.

(4) Employees occupying on-call, temporary, seasonal, or contract positions, or positions in which the incumbent is paid according to the community rate schedule; or employees who meet the requirements of section 18-408(j)(7) of this chapter;

(b) Officers and employees who were receiving the City's paid leave benefit (predecessor to this PTO benefit) on December 31, 2009, and who otherwise continue to remain eligible, shall receive PTO as provided in this division.

(c) *Re-instated employees.* Employees who were laid off while receiving paid sick and vacation leave benefits, and are re-instated under the career service rules after December 31, 2009, will be enrolled in the PTO plan unless they elect in writing to continue in the paid sick and vacation plan. Such election must be made within thirty (30) days of the effective date of their re-instatement.

Sec. 18-124. Conversion from paid sick and vacation leave plan to paid time off.

(a) Officers and employees who were receiving paid sick and vacation leave on December 31, 2009; and who otherwise continue to remain eligible, may voluntarily elect to receive PTO benefits instead of paid sick and vacation leave. In order to receive PTO benefits, such officers and employees must provide written notice of this election to the Department of Finance on or before

February 1, 2010. Submission of this written notice will result in an irrevocable waiver of the officer's or employee's right to further receipt of paid sick and vacation leave benefits provided under this article.

(b) *Conversion of Existing Sick and Vacation Leave Banks.* Officers and employees who elect to participate in the PTO plan must convert their existing sick and vacation leave banks into a special leave bank subject to the following conditions. An officer or employee may deposit one hundred (100) percent of his or her existing vacation leave plus a maximum of fifty (50) percent of his or her existing sick leave into PTO, which shall be deposited in a special leave bank, so long as the amount of PTO in the special leave bank does not exceed four hundred (400) hours. Any excess sick leave shall be forfeited. The amount of existing sick and vacation leave to be converted shall be the amount of leave earned as of January 31, 2010.

(c) *Exhaustion of Special Leave Bank.* The PTO balance in an officer's or employee's special leave bank shall not be replenished. PTO subsequently earned by an officer or employee shall be deposited in his or her PTO bank. PTO used by an officer or employee shall be debited from the officer's or employee's PTO bank first unless it has been exhausted or if the officer or employee requests that the special leave bank be used first.

Sec. 18-125. Paid time off allowance.

The amount of PTO earned by eligible employees and officers working full-time shall be calculated as follows:

(a) Under six (6) months of consecutive service, ten (10) hours per month;

(b) At six (6) consecutive months of service, and up to five (5) years of consecutive service; twelve (12) hours per month;

(c) At five (5) consecutive years of service, and up to ten (10) years of consecutive service; fifteen (15) hours per month;

(d) At ten (10) consecutive years of service, and up to fifteen (15) years of consecutive service; eighteen (18) hours per month;

(e) At fifteen (15) or more consecutive years of service; nineteen (19) hours per month;

These amounts are demonstrated below:

Paid Time Off Years of Service	Accrual Hours per month	Hours per year
From hire to 6 months	10	-
From 7 months to 1 year	12	132
Years 1 to 4	12	144
At 5 years, <10 years	15	180
At 10 years, <15 years	18	216
At 15 years and beyond	19	228

A proportionate amount shall be allowed eligible employees working part-time.

Sec. 18-126. Effect of transfer.

When an officer or employee receiving PTO is appointed to a position in another City department or agency which is governed by the provisions of this article, his or her PTO credits shall be transferred into the new place of City employment provided that the entrance on duty in the new position immediately follows the separation from the former position.

Sec. 18-127. Accumulation and pay-out of paid time off.

(a) PTO may not be accumulated in the PTO bank in excess of four hundred (400) hours.

(b) Upon separation, a PTO recipient shall be paid at his or her regular rate

of pay for the unused portion of his or her accumulated PTO bank and special bank if applicable.

Sec. 18-128. Bereavement leave.

Officers and employees who receive PTO benefits shall be entitled to use up to forty (40) hours of paid bereavement leave because of the death of a member of an officer's or employee's immediate family. This forty (40) hours of bereavement leave shall not count against the officer's or employee's PTO bank.

Sec. 18-129. Career service rules.

The career service rules shall include provisions implementing this division relating to PTO that shall apply to all officers and employees covered by this division, including, but not limited to rules related to donated leave, approval of leave usage, and debiting leave balances. Career service rules implementing the PTO leave benefit shall apply to officers and employees not in the career service, except that when the career service rules permit exceptions with the approval of career service personnel director, such approval shall be the sole responsibility of the employee's appointing authority, and the approval of the career service personnel director shall not be required.

DIVISION 2. SICK AND VACATION LEAVE

Sec. 18-131. Eligibility

(a) Officers and employees who were receiving paid sick and vacation leave on December 31, 2009; who remain continuously employed by the City; and who have not voluntarily elected to receive PTO benefits, shall be entitled to continue to receive paid sick and vacation leave so long as the officer or employee does not become:

(1) A part-time employee who is regularly scheduled to work less than twenty (20) hours per week;

(2) A member of the classified service of the police and fire departments;

(3) An employee in the deputy sheriff classifications.

(4) *A* person occupying or employed in on-call, temporary, seasonal, or contract position, or position in which the incumbent is paid according to the community rate schedule.

(b) *Re-instated employees.* Employees who were laid off while receiving paid sick and vacation leave benefits, and are re-instated under the career service rules after December 31, 2009, may elect in writing to continue in the paid sick and vacation plan. Such election must be made within thirty (30) days of the effective date of their re-instatement. Failure to submit this election will result in the employee being enrolled in the PTO plan.

Sec. 18-132 Sick and vacation leave allowance.

Subject to the following provisions, the heads of all offices, agencies, commissions and departments of the city are hereby authorized and directed to grant paid sick and vacation leave to eligible officers and employees.

(a) *Sick leave.*

(1) Officers and employees working full-time shall accrue sick leave at the rate of eight (8) working hours per month of service, and officers and employees working part-time shall accrue a proportionate amount.

(2) Sick leave may be accumulated to a limit of nine hundred sixty (960) working hours. When the accumulation exceeds eight hundred eighty (880) working hours, an officer or employee may request that accumulated sick leave in excess of the eight hundred eighty (880) working hours be converted to vacation leave. Such conversions are in addition to the monthly amount of vacation leave allowed by this section. Officers and employees may not convert sick leave to vacation leave if such a conversion would result in the officer's or employee's accumulated vacation leave exceeding the limits allowed by the career service rules.

(b) *Vacation leave.*

(1) The amount of vacation leave allowed eligible officers and employees working full-time, employed after January 1, 1981, shall be computed on the basis of eight (8) working hours per month of service for the first five (5) consecutive years. All eligible officers and employees working full-time shall be computed on the basis of ten (10) working hours per month of service for five (5) to ten (10) consecutive years, twelve (12) working hours per month of service for ten (10) to fifteen (15) consecutive years and fourteen (14) working hours per month of service for fifteen (15) or more consecutive years, and an amount proportionate thereto shall be allowed eligible employees working part-time.

(2) Vacation leave shall be taken at a time convenient to the office, agency, commission or department head, provided that, every eligible officer and employee shall be granted vacation leave during each twelve (12) month period of employment except where a deferment, not to exceed an additional twelve (12) months, is required for the good of the service.

Sec. 18-133. Effect of transfer

When an officer or employee receiving paid sick and vacation leave is appointed to a position in another City department or agency which is governed by the provisions of this division, his or her sick and vacation leave credits shall be transferred into the new place of city employment provided that the entrance on duty in the new position immediately follows the separation from the former position.

Sec. 18-134. Sick and vacation pay upon separation.

Upon separation, eligible officers and employees shall be paid for the unused portion of their accumulated sick and vacation leave, if any, subject to the following provisions:

(a) *Sick leave.*

(1) Upon separation for any reason other than death or retirement, an officer or employee who has completed five (5) consecutive years of service shall be paid at the regular rate of pay for the difference between

the balance of sick leave days to his or her credit and forty (40) hours multiplied by the years of service to a maximum of ten (10) years.

(2) Upon separation due to retirement or death, an officer or employee shall be paid at his or her regular rate of pay for one-half (1/2) of all accumulated sick leave credits existing on the effective date of separation or death, or in accordance with the method described under subsection (1), whichever is higher, but not to exceed five hundred sixty (560) working hours.

(b) *Vacation leave.* An eligible officer or employee who has served in a city position for less than six (6) months shall not be paid for any accumulated vacation leave. Officers or employees with more than six (6) months of service may use accumulated vacation leave and shall be paid at his or her regular rate of pay for the unused portion of his or her accumulated vacation leave upon separation.

Sec. 18-135. Sick and vacation leave pay upon retirement without separation under the deferred retirement option plan (DROP).

(a) *Sick leave.*

(1) Officers and employees who participated in DROP who maintain continuous city employment following the end of the DROP, shall accrue sick leave hours in accordance with section 18- 132, including application of the maximum accrual limitations, in the same manner as a regular employee. During this period, accumulated sick leave may be converted into vacation leave if used immediately upon conversion.

(2) Upon final separation due to retirement or death, a member who has participated in the DROP shall be paid one-half (1/2) of his or her accrued and unused sick leave. Upon separation for any other reason, the officer or employee shall be paid for sick leave in accordance with section 18-134(a)(1).

(b) *Vacation leave.*

(1) For any period of continuous city employment following the end of the DROP, the officer or employee shall continue to accrue vacation leave hours in accordance with section 18-132 (b) in the same manner as a regular officer or employee. Upon final separation from city employment, the officer or employee shall be paid, in accordance with section 18-134 for unused vacation leave hours that accrued after the officer's or employee's declaration of retirement without separation from employment.

(2) If the officer or employee continues employment after participation in the DROP, the calculation of a bridged pension benefit earned during the continuous employment after the DROP exit shall include any accrued vacation leave payoff received by the officer or employee at termination of employment.

Sec. 18-136. Career service rules.

The career service rules shall include provisions implementing this division relating to sick and vacation leave that shall apply to all officers and employees covered by this division, including, but not limited to rules related to donated leave, approval of leave usage, and debiting leave balances. Career service rules implementing sick and vacation leave benefits shall apply to officers and employees not in the career service, except that when the career service rules permit exceptions with the approval of career service personnel director, such approval shall be the sole responsibility of the officer's or employee's appointing authority, and the approval of the career service personnel director shall not be required.

Section 4. That a new Section 18-177 D.R.M.C. be added to the Code as follows:

Sec. 18-177. Short - term disability--City contribution.

The city shall contribute one hundred (100) percent of the monthly premium for the short-term disability insurance plan provided by the city for officers and employees receiving paid time off benefits under Division 1 of Article V of this Chapter.

Section 5. That Section18-402(13) (sometimes known and cited as Section 402(13), Chapter 18) of the Denver Revised Municipal Code, relating to gross pay, compensation and salary,

shall be amended by deleting the language stricken and adding the language underlined, to read as follows:

(13) *Gross pay, compensation and salary* shall mean that amount of remuneration, including wages, salaries, other amounts received for personal services actually rendered in the course of employment with the employer, and other amounts actually included or that could be included in gross income of and due to an employee, including employees on disability leave as provided for in division 4 of article V of this chapter 18, or otherwise, from the employer in the full amount as calculated before any reductions or deductions are made there from for any purpose, including reductions or deductions by reason of sections 125, 132(f)(4) or 457 of the Internal Revenue Code, but not including distributions made from a plan of the employer designed to be eligible under section 457. The calendar year shall be the limitation year (determination period) for purposes of section 415 of the Internal Revenue Code.

Gross pay, compensation and salary shall not include any amounts paid to a member whose service with the employer begins, or whose reemployment with the employer begins, after December 31, 2009 for the unused portion of the employee's bank of accumulated paid time off upon the employee's separation from employment with the employer. Employees who were employed on or before December 31, 2009, who are thereafter laid off and then re-instated (as defined in the career service rules), shall continue to have included in the calculation of their retirement benefit as gross pay, compensation and salary the unused portion of the employee's bank of accumulated paid time off upon the employee's subsequent separation from employment with the employer.

Employer provided fringe benefits receiving special tax benefits, such as premiums for group term life insurance (to the extent excludible from gross income), shall be excluded from the definition of compensation. Payments made to employees pursuant to Article XV, Chapter 18., shall be excluded from the definition of compensation and shall not be used in calculating an employee's retirement benefit.

~~The calendar year shall be the limitation year (determination period) for purposes of section 415 of the Internal Revenue Code.~~

COMMITTEE APPROVAL: General Government on October 13, 2009.

MAYOR-COUNCIL DATE: October 20, 2009.

PASSED BY THE COUNCIL November 2 2009

Jeanne Robb - PRESIDENT

APPROVED: John Hickenlooper - MAYOR Nov. 3 2009

ATTEST: Stephanie Y. O'Malley Shaw - CLERK AND RECORDER, EX-OFFICIO CLERK OF THE CITY AND COUNTY OF DENVER

NOTICE PUBLISHED IN THE DAILY JOURNAL Oct. 30, 2009 Nov. 6, 2009

PREPARED BY: Christopher M.A. Lujan - ASSISTANT CITY ATTORNEY - _____, 2009

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

City Attorney

By: _____, Asst. City Attorney - 22 Oct., 2009