

# Union Organizing in a Government Setting

by Madeline J. Meacham and Patrick R. Scully

*Public sector union organizing is heating up in Colorado. This article explores the legal boundaries of union activity, recent developments in public sector organizing, and legislative initiatives.*

In Colorado, the National Labor Relations Act<sup>1</sup> (NLRA) and the Colorado Labor Peace Act<sup>2</sup> secure the rights of most private employees to organize and join unions, and the right to collectively bargain with their employers about their terms and conditions of employment. Unlike their peers in the private sector, public employees enjoy neither organizational rights nor collective bargaining rights under the NLRA or the Colorado Labor Peace Act. The NLRA specifically excludes public employees from its coverage. The Act does not protect employees of “the United States or any wholly owned Government corporation, or any Federal Reserve Bank, or any State or political subdivision, thereof. . . .”<sup>3</sup> The Colorado Labor Peace Act similarly exempts employees of the state or any political subdivision, unless the government entity operates a mass transit system.<sup>4</sup>

For public employees, however, the quest for union rights does not end with the NLRA or the Colorado Labor Peace Act. The First Amendment to the U.S. Constitution<sup>5</sup> generally secures the right of public employees to associate with labor organizations, and state and local governments can choose to authorize collective bargaining with public employee unions.<sup>6</sup> In 2007 and 2008, Colorado experienced considerable executive and legislative activity on the subjects of union organizing and bargaining in the public sector. These issues will continue to be addressed at the local, state, and national level in the future. Federal and state law provides the framework for a general discussion of these efforts and the prospect of continuation of the executive and legislative activity dealing with union organizing and collective bargaining.

## A Public Employee’s Constitutional Right to Organize

The freedom of association and the freedom of speech guaranteed by the First Amendment protect the rights of most public employees to engage in organizing activities. The freedom of associa-

tion includes the right to belong to a union.<sup>7</sup> As a result, a public employer may not constitutionally discharge or dismiss an employee for accepting union membership.<sup>8</sup> Furthermore, a public employee’s right to free speech and expression protect the employee’s union activity.<sup>9</sup> The First Amendment’s protections of public employees’ organizational rights are not plenary.

In *Key v. Rutherford*,<sup>10</sup> the Tenth Circuit Court ruled that the right to freely associate does not protect a public employee’s organizational rights if there is “a substantial state interest” in limiting the individual’s right and “the limits are narrowly drawn to avoid unnecessary abridgement of such rights.” For example, the government’s substantial interest in efficient operations supports a rule prohibiting managers and supervisory personnel from joining the same union as non-management personnel.<sup>11</sup> Similarly, the state’s legitimate penological interests may justify prohibiting inmate-to-inmate union solicitations and union meetings, even if the rule does not also prohibit union membership.<sup>12</sup>

## Limitations of Free Speech and the Right to Organize

Whether the First Amendment’s guarantee of free speech preserves a public employee’s organizational activities is a complicated question, the answer to which turns on the character of the government property on which the speech occurs.<sup>13</sup> For purposes of free speech analysis, there exist three types of government property that determine whether the government may limit speech: traditional public forums, designated public forums, and nonpublic forums.<sup>14</sup>

**Traditional public forum.** A traditional public forum is a place that “by long tradition or by government fiat [has] been devoted to assembly and debate.”<sup>15</sup> Public sidewalks, parks, and streets are “[q]uintessential traditional public fora.”<sup>16</sup> In traditional public forums, the government may not impose content-based restrictions on speech.<sup>17</sup> The government or a political subdivision may, how-

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ever, limit speech—including speech related to unions—with content-neutral regulations that can withstand strict scrutiny.<sup>18</sup>

**Designated public forum.** A designated public forum is any “public property which the State has opened for use by the public as a place for expressive activity.”<sup>19</sup> Examples of designated public forums include university meeting facilities, school board meetings, and municipal theaters.<sup>20</sup> The U.S. Supreme Court ruled in *Perry Education Association v. Perry Local Educators’ Association*:

Although a State is not required to indefinitely retain the open character of the facility, as long as it does so it is bound by the same standards as apply in a traditional public forum.<sup>21</sup>

**Nonpublic forum.** A nonpublic forum is one that “is not by tradition or by designation a forum for public communication.”<sup>22</sup> Prisons,<sup>23</sup> military bases,<sup>24</sup> school mail facilities<sup>25</sup> and the covered walkway at the Denver Center for the Performing Arts complex<sup>26</sup> are examples of nonpublic forums. In contrast to the government’s powers to limit speech in traditional and designated public forums, the government may restrict speech in nonpublic forums provided the restriction is reasonable and “not an effort to suppress expression merely because public officials oppose the speaker’s view.”<sup>27</sup>

Even if a forum is generally nonpublic, the government may create a limited public forum by opening the facility to certain types of speech and expression. For example, in *Hawkins v. City and County of Denver*,<sup>28</sup> the Tenth Circuit recognized that the covered walkway at the Denver Center for the Performing Arts complex was a limited public forum, because Denver permitted patrons of the complex to congregate there to discuss a variety of issues. The Center also permitted tenants of the complex to advertise in the space. However, even though theater patrons and tenants of the complex had permission to use the space for limited types of speech, the Tenth Circuit held that the limited public forum did not extend to encompass picketing and leafleting by a musician’s union.<sup>29</sup>

The U.S. Supreme Court held in *Perry Education Association* that, where a government has recognized a union, the government does not create a limited public forum by giving the union access to employees on government property.<sup>30</sup> The Court reasoned that granting the union access to the school’s employees on school property was not akin to opening the facility to the public, because the union was not part of the public; rather, it had special responsibilities related to the school’s business.<sup>31</sup> Because the school district had not created a limited public forum by opening its mailing facilities to unions with which it negotiated, the Court concluded that the school district could bar rival unions from using its mailing facilities to communicate with teachers, provided the restriction was reasonable.<sup>32</sup>

## A Public Employee’s Right to Collectively Bargain

The Constitution and public employees’ rights thereunder do not guarantee public employee unions the right to collectively bargain with municipalities or political subdivisions.<sup>33</sup> Colorado’s municipalities or political subdivisions can, however, authorize public employees to collectively bargain about the terms and conditions of their employment.<sup>34</sup> When a municipality or political subdivision negotiates and enters into a collective bargaining agreement with its employees, the agreement is generally enforceable.<sup>35</sup> However, article XXI, § 4, of the Colorado Constitution prohibits a municipality or political subdivision from delegating governmental or legislative decision making to any party who is not politically accountable.<sup>36</sup>

In *Greeley Police Union v. City Council of Greeley*,<sup>37</sup> the Colorado Supreme Court considered the constitutionality of an amendment to the city of Greeley’s Charter that gave police collective bargaining rights and imposed binding interest arbitration if negotiations between the city and the union stalled. Under the amendment, the American Arbitration Association (AAA) would provide the parties a list of five AAA arbitrators, from which each side could strike two names.<sup>38</sup> AAA would assemble a three-member arbitration panel from the remaining names.<sup>39</sup> The Court severed and struck the binding interest arbitration provision, which violated article XXI, § 4, by delegating governmental decision making on issues such as salaries, budgets, and the terms and conditions of employment to arbitrators who were not accountable to the People.<sup>40</sup> The Court, nevertheless, upheld the right of police to collectively bargain under the amendment.<sup>41</sup>

In contrast, in *City and County of Denver v. Denver Firefighters Local No. 858*,<sup>42</sup> the Court held that binding grievance arbitration is not *per se* unconstitutional under article XXI, § 4, even if the arbitrator or arbitration panel is not accountable to the electorate. In reaching its conclusion, the Court distinguished between binding interest arbitration, which delegates legislative authority by authorizing the arbitrator to set the terms of the contract, and binding grievance arbitration, in which the arbitrator performs judicial functions such as fact-finding and contract interpretation.<sup>43</sup> If the arbitrator “exceed[s] his authority by going beyond the contract terms and, in effect, enacting new binding terms and conditions of employment,” the dissatisfied party can seek relief from the court.<sup>44</sup>

## The Voluntary Agreement to Recognize a Union

Historically, some government entities have voluntarily entered into bargaining agreements with public employee bargaining representatives, even though government entities are not required to do so by law.<sup>45</sup> A recent strategy of unions seeking to represent public employees is to ask public entities to commit to a process for recognizing a bargaining representative and negotiating a bargaining agreement.<sup>46</sup> The requested terms for recognition and negotiations occasionally correspond to the procedures and parameters of the NLRA, but frequently are more favorable to organizing than the provisions of the NLRA.<sup>47</sup>

### *A Hypothetical Request to Bargain in the Public Sector*

An overture to make a commitment to negotiate a bargaining agreement may come from a group of employees who have been recruited by a union. The employees may seek support from sympathetic local citizenry and elected officials aligned with the officials of the public entity. Part of this process may include invoking the historic alliance between labor and the prominent political figures. The proposal may be presented as interest-based—that is, as an essentially cooperative and collaborative process to address problems facing government.<sup>48</sup> Traditional issues of wages and personnel actions may be deemphasized. However, traditional tactics, such as distributing and mailing literature and holding meetings (on-site, if permitted), are used with employees. Any contentious issues that are in play may be used to engage employees. For example, in the current economic and political climate, cost of health insurance premiums or the prospect of layoffs could be raised as issues best addressed by an employee organization.

The options available to a government entity considering such a voluntary arrangement are:

- 1) refusing to discuss employee issues with a union;
- 2) conferring with a union without recognizing the union as a bargaining agent; or
- 3) agreeing to allow a union to hold a certification election and, if the union prevails, to recognize the union as a bargaining agent, for the particular bargaining unit formed, and to negotiate a bargaining agreement.

Because the NLRA does not apply in the scenario presented above, there is no specific structure that would govern any discussion or negotiations with a union, if a public entity decides to pursue them.

### *Practical Considerations in Accepting a Voluntary Union Agreement*

A number of questions have to be addressed in any arrangement to voluntarily recognize/bargain with a union:

- How many bargaining units is the public entity willing to recognize and have subject to negotiation? The bargaining unit could be as large as all nonsupervisory employees of the entity, or it can be divided by occupational duties, such as public safety employees, administrative support employees, or health services employees.
- Which employees are eligible to participate in an election?
- How will supervisory employees be treated?
- What percentage of eligible employees requesting an election would trigger an election? How would those employees indicate their desire for an election?
- Would an election be by secret ballot or card check?
- How would disputes about the petition and election process be resolved?
- What will the negotiating process look like?
- What, if any, issues are off the table for the purpose of negotiating?
- What happens in the event of an impasse?

All of these questions are addressed by the NLRA.<sup>49</sup> Simply tracking those provisions is one option, with an exception for the constitutional requirements addressed above that limit bargaining agreements in the public sector.

In addition to seeking a commitment to provide a process for recognition of a bargaining representative, the organizers may ask the entity to agree to maintain a level of neutrality that goes beyond the requirements of the NLRA. Neutrality, as defined by labor, precludes management from commenting on (either in favor or against) union efforts to organize and/or the consequences of forming a union. Such neutrality frequently entails organizers' request for recognition of the labor organization based on a "card check"—that is, an election based on the union's presentation of signed authorization cards. The NLRA allows management to comment on union organizing as long as there are no threats of retaliation or coercion,<sup>50</sup> and provides for selection of a bargaining agent by secret ballot election.<sup>51</sup>

### Executive Order Authorizing Partnership Agreements

In Colorado, Governor Ritter signed Executive Order D 028 07<sup>52</sup> in November 2007. The Executive Order authorizes "Partnership Agreements" with state employees. It defines "Covered Employees," "Certified Employee Organization," "Partnership Unit," and "Partnership Agreement," and sets out a process for triggering an election of a "Certified Employee Organization Unit" by petition of 30 percent of the employees in a Partnership Unit. For example:

- Covered Employees are individuals employed in the "personnel system of the state," with exemptions including confiden-

tial employees, managerial employees, and supervisory employees.<sup>53</sup>

➤ The occupational groups that can form a Partnership Unit are:

- Administrative Support and Related Services
- Enforcement and Protective Services
- Financial Services
- Health Care and Medical Services
- Labor, Trades, and Crafts
- Physical Sciences and Engineering
- Professional Services and Teachers
- Troopers.<sup>54</sup>

The Director of the Division of Labor is charged with implementing and administering the Executive Order.<sup>55</sup> The Order permits election by mail ballot, on-site balloting, or a combination of both. Management or supervisory employees are prohibited from encouraging or discouraging membership in any Employee Organization or exclusive representation of employees by an Employee Organization.<sup>56</sup>

The Executive Order provides for negotiation of Partnership Agreements, with distinctions for matters requiring statewide uniformity, affecting individual occupational groups, and involving particular departments. The state is represented by the governor's designee, in concert with the executive officials charged with administering the issues subject to the Partnership Agreement for matters requiring statewide uniformity or individual occupancy groups.

The state is represented by the executive director of a department on matters involving particular departments, along with the governor's designee. All agreements are subject to approval by the governor. Nothing in any agreement may diminish the governor's discretion to prepare his or her proposed budget, including setting the amount allocated to total employee compensation in that proposed budget.

Also excluded are matters constitutionally and statutorily delegated to the State Personnel Board, as well as the statutory function of any department or agency and matters related to the Public Employees' Retirement Association.<sup>57</sup> The Executive Order provides for mediation, but not binding arbitration, in the event of an impasse.<sup>58</sup> It prohibits strikes, work stoppage, work slowdown, sick-outs, or "other similar disruptive measures."<sup>59</sup>

### *Colorado WINS*

In the two years since Executive Order D 028 07 was signed, Colorado's state employees have selected six Certified Employee Organization Units. In all but one of these elections, the labor organization was selected by a voting group that comprised less than 30 percent of the affected employees.<sup>60</sup>

Colorado's new state employee union (Colorado WINS)<sup>61</sup> is already claiming victories for members, including a campaign to prevent furloughs and to find alternatives to budget cuts, and selecting a thirty-member negotiating team to begin addressing health care, compensation, and workplace conditions.<sup>62</sup> The union will attempt to schedule and begin talks with a team of state negotiators over their requests for the fiscal year beginning July 1, 2010.<sup>63</sup> Despite the claim that an Executive Order and Partnership Agreement would not negatively affect the budget, Colorado WINS representatives claim they intend to negotiate for improvements in state employees' wages and health benefits.<sup>64</sup>

### Legislative Approaches

Labor's initiatives in Colorado in 2008–09 demonstrate direct and indirect attempts to combat the legal framework that presents barriers to public sector organizing/bargaining. Following are two examples of this.

#### *Firefighter and Law Enforcement Collective Bargaining Bill*

Colorado Senator Tochtop and Colorado Representative Casso introduced Senate Bill (S.B.) 09-180 in the 2009 legislative session to compel local governments to hold elections if 30 percent of eligible firefighters and/or law enforcement officers petitioned, and to compel recognition of a bargaining representative if a majority of employees voted in favor of representation.<sup>65</sup> In contrast to the much debated federal Employee Free Choice Act,<sup>66</sup> S.B. 09-180 provides for election by secret ballot. However, it permits the negotiation of a collective bargaining agreement to require all members of a bargaining unit to pay dues as a condition of employment.<sup>67</sup> It also gives exclusive representatives (unions) the right to have dues deducted and collected from pay by the public employer when authorized by the employee.

S.B. 09-180 imposes an obligation to bargain in good faith. When an impasse exists, it provides a process for appointment of an advisory fact-finder, and for submitting arguments to the advisory fact-finder. If either the public employer or exclusive repre-

sentative rejects a fact-finder's decision, the unresolved issues must be submitted to a vote at a special election. The voters must select either the final offer of the public employer or the final offer of the exclusive representative. Strikes are prohibited. As of this writing, the bill was pending in the Appropriations Committee, in spite of opposition by the Colorado Municipal League.

### 2008 Ballot Measures

In 2008, numerous labor-related ballot measures were introduced on both sides of the issue. Briefly, a group of businesspeople led by Jonathan Coors backed Amendment 47 (the "Right To Work" amendment),<sup>68</sup> which would have prohibited employers and unions from agreeing that employees must pay dues to a union as a condition of employment. Jon Caldara sponsored Amendment 49,<sup>69</sup> an initiative that would have prohibited state and local governments from deducting union dues from workers' paychecks. Labor placed four worker-friendly and business-unfriendly measures on ballots, including a requirement that businesses with at least twenty employees provide health insurance,<sup>70</sup> and a ban on firing employees without cause.<sup>71</sup> In October 2008, a group of businesspeople agreed to join labor's opposition to Amendments 47 and 49 in exchange for labor's agreement to withdraw the four labor-backed measures from the ballot.<sup>72</sup> Amendments 47 and 49 were defeated.<sup>73</sup>

### Conclusion

As labor seeks to reinvigorate its base by expanding its presence in the public sector, pressure on state and local governments to recognize and negotiate with bargaining representatives will increase, in spite of the exemptions of the NLRA and Colorado Labor Peace Act. Attorneys representing local governments will need to address these challenges and familiarize themselves with the legal issues involved.

### Notes

1. 29 U.S.C. §§ 151 *et seq.*
2. CRS §§ 8-3-101 *et seq.*
3. 29 U.S.C. § 151(2).
4. CRS § 8-3-104(12).
5. U.S. Const. amend. I. The First Amendment declares: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.
6. See, e.g., *Local Union No. 370, Int'l Union of Operating Engineers v. Detrick*, 592 F.2d 1045, 1046 (9th Cir. 1979) ("Except when the state by an act of its own legislature compels counties to bargain with unions, counties have no duty to do so."); *Greeley Police Union v. City Council of Greeley*, 553 P.2d 790, 791 (Colo. 1976) (upholding the city's duty to bargain with the police union pursuant to an amendment to the city's charter).
7. *Lontine v. VanCleave*, 483 F.2d 966, 967 (10th Cir. 1973).
8. *Id.* In *Lontine*, the Tenth Circuit held that a sheriff's deputy had a viable 42 U.S.C. § 1983 claim against the sheriff's department because he was discharged for joining a union.
9. *Lybrook v. Farmington Mun. Schs. Bd. of Educ.*, 232 F.3d 1334 (10th Cir. 2000).
10. *Key v. Rutherford*, 645 F.2d 880, 885 (10th Cir. 1981).
11. *Id.* See also *York County Firefighters Ass'n, Local 2498 v. County of York*, 589 F.2d 775, 778 (4th Cir. 1979) (state's substantial interest in efficient and smooth operations of fire department justified barring super-

visors from joining rank-and-file firefighters, because supervisors' loyalty to the union and other union members would have conflicted with the department's interests).

12. *Jones v. North Carolina Prisoners' Labor Union, Inc.*, 433 U.S. 119, 130 (1977).
13. *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37, 44 (1983).
14. *Id.* at 45-46.
15. *Id.* at 45.
16. *Hawkins v. City and County of Denver*, 170 F.3d 1281, 1286 (10th Cir. 1999), *cert. denied*, 528 U.S. 870 (1999).
17. *Id.* See also *Perry Educ. Ass'n*, *supra* note 13 at 45.
18. *Perry Educ. Ass'n*, *supra* note 13 at 45.
19. *Id.*
20. *Id.* (internal citations omitted).
21. *Id.* at 46.
22. *Id.*
23. *Jones*, *supra* note 12 at 134.
24. *Greer v. Spock*, 424 U.S. 828, 838 n.10 (1976).
25. *Perry Educ. Ass'n*, *supra* note 13 at 46.
26. *Hawkins*, *supra* note 16 at 1281, 1288.
27. *Perry Educ. Ass'n*, *supra* note 13 at 46. For example, in *Jones*, *supra* note 12 at 136, the U.S. Supreme Court upheld a regulation prohibiting inmate-to-inmate union solicitation and prisoners' labor union meetings, because the regulation was reasonably related to penological considerations. Specifically, the Court deferred to prison officials' belief that a prisoners' union would not facilitate rehabilitation but would make the prison unsafe by creating an adversarial relationship between the inmates and prison officials.
28. *Hawkins*, *supra* note 16 at 1288.
29. *Id.*
30. *Perry Educ. Ass'n*, *supra* note 13 at 48-49.
31. *Id.* at 52-53.
32. *Id.* at 53.
33. See, e.g., *Local Union No. 370, Int'l Union of Operating Engineers*, 592 F.2d at 1046 ("The alleged deprivations all arise out of the failure of association and speech to produce results. The county government's refusal to bargain on matters of wages, hours, and working conditions is a right preserved for state governments and their subdivisions."). Absent the right to compel a government entity to agree to recognize the union, this activity is sometimes referred to as "solidarity organizing," that is, organizing that focuses on creating bargaining power based on the sheer number of government employees who have signed up for membership in the union.
34. *Greeley Police Union*, *supra* note 6 at 791.
35. *Id.*
36. Colo. Const. art. XXI, § 4. Specifically, Colorado's Constitution mandates that: Every person having authority to exercise or exercising any public or governmental duty, power or function, shall be an elective officer, or one appointed, drawn or designated in accordance with law by an elective officer or officers, or by some board, commission, person or persons legally appointed by an elective officer or officers, each of which said elective officers shall be subject to the recall provision of this constitution; provided, that, subject to regulation by law, any person may, without compensation therefore, file petitions, or complaints in courts concerning crimes, or do police duty only in cases of immediate danger to person or property.
37. *Greeley Police Union*, *supra* note 6 at 792.
38. *Id.* at 791.
39. *Id.*
40. *Id.* at 792.
41. *Id.* at 792-93.
42. *City and County of Denver v. Denver Firefighters Local No. 858*, 663 P.2d 1032, 1040 (Colo. 1983). The three-member arbitration panel comprised one arbitrator selected by the city, a second selected by the union, and a third selected by agreement between the city and the union or, if no

agreement was possible, selected by the American Arbitration Association.

43. *Id.* at 1037-38.

44. *Id.* at 1039-40.

45. *Id.*

46. On September 12, 2006, SEIU Local 105 submitted a draft resolution for voluntary recognition to Boulder County. *See* [seiu105.org/boulder\\_county/labor\\_rights.cfm](http://seiu105.org/boulder_county/labor_rights.cfm).

47. *Id.*

48. Initial reports regarding the Governor's Executive Order emphasized the potential of labor to collaborate and increase efficiencies. Mook, "Labor Experts Make Case Against Ritter's Union Order," *The Denver Business Journal* (Jan. 11, 2008).

49. 29 U.S.C. §§ 151 to 169.

50. 29 U.S.C. § 158.

51. 29 U.S.C. § 159.

52. Exec. Order No. D 028 07, Authorizing Partnership Agreements with State Employees (Nov. 2, 2007), available at [www.coworkforce.com/lab/union.asp](http://www.coworkforce.com/lab/union.asp).

53. *Id.* at II(B).

54. *Id.* at II(H).

55. *Id.* at III(A).

56. *Id.* at III(B).

57. *Id.* at III(D).

58. *Id.* at III(E) and (F).

59. The right of state employees to strike notwithstanding the Executive Order survived until Gov. Bill Ritter signed House Bill (H.B.) 08-1189 on April 3, 2008. H.B. 08-1189 prohibit strikes by any employee (or labor organization) in the state personnel system.

60. Election results and other statistics available at "Labor Relations and Union Issues" tab at [www.coworkforce.com](http://www.coworkforce.com).

61. *See* [www.coloradowins.org](http://www.coloradowins.org).

62. *Id.*

63. Sealover, "Colorado State Employees Make Pitch for Pay," *The Denver Business Journal* (June 22, 2009).

64. Berger, "Statewide Negotiating Team and DPA Discuss Pay Administration" (May 5, 2009). *See* [www.coloradowins.com](http://www.coloradowins.com).

65. Senate Bill 09-180, Concerning Collective Bargaining by Employees of Public Safety Agencies, First Regular Session, 67th General Assembly (Colo. 2009), referred to Senate for Second Reading on March 25, 2009.

66. H.R. 1409, 111th Cong. (2009).

67. Currently, unions representing private employees cannot negotiate such a provision without first prevailing (with a 75 percent margin) in an election under the Labor Peace Act authorizing an "all union agreement." CRS § 8-3-108(C)(1).

68. Proposed Initiative Measure 2007-08 No. 41, concerning prohibition on certain conditions of employment, approved for the 2008 general election ballot on April 10, 2008 as Amendment 47, Prohibition on Mandatory Labor Union Membership and Dues.

69. Proposed Initiative Measure 2008-08 No. 53, concerning limitations on public payroll deductions, approved for the 2008 general election ballot on July 9, 2008 as Amendment 49, Allowable Government Paycheck Deductions.

70. Proposed Initiative Measure 2007-08 No. 76, Just Cause for Employee Discharge or Suspension, approved for the 2008 general election ballot on August 4, 2008 as Amendment 55, Allowable Reasons for Employee Discharge or Suspension, ballot measure withdrawn, available at [www.leg.state.co.us/lcs/ballothistory.nsf](http://www.leg.state.co.us/lcs/ballothistory.nsf).

71. Proposed Initiative Measure 2007-08 No. 115, Employer Responsibility for Health Insurance, approved for the 2008 general election ballot on May 8, 2008 as Amendment 56, Employer Responsibility for Health Insurance, ballot measure withdrawn, available at [www.leg.state.co.us/lcs/ballothistory.nsf](http://www.leg.state.co.us/lcs/ballothistory.nsf).

72. Vuong, "Business, labor join to defeat 3 initiatives," *The Denver Post* A1 (Oct. 3, 2008).

73. Vuong, "Labor prevails in bid to defeat 2 of 3 measures," *The Denver Post* b1 (Nov. 5, 2008). *See also* [www.leg.state.co.us/lcs/ballothistory.nsf](http://www.leg.state.co.us/lcs/ballothistory.nsf). ■