PUBLIC SERVICE COLLECTIVE BARGAINING: A SOCIAL REFORM; A NEW WAY OF LIFE

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EMERGENCE OF PUBLIC EMPLOYEE UNIONIZATION AND COLLECTIVE BARGAINING

One of the most intense social movements taking place in our nation today is the unbelievable growth of unionization and collective bargaining in public services. The movement really took root in the late 1950s and has in some manner affected all units of government. Being a strong social movement, public service collective bargaining will continue to spread throughout the country and into all segments of public service. To assume it will not directly affect you or your agency is wishful thinking. As public service administrators and managers, we must fully understand collective bargaining and get our organizations in order before the union agent knocks on our door if we expect to retain those prerogatives and rights needed to manage the programs and resources entrusted to us.

Public service administrators not knowledgeable in collective bargaining may recognize too late that the process of collective bargaining not properly understood or managed can result in a process where management bargains and the union collects, or, stated another way, in the process of give and take, management will give and the union will take.

Collective bargaining is an adverse process, essentially a conflict between management and union. Those who seek harmony within the process are doomed to disappointment because conflict is inevitable. Even in its adversity, the final objective must however be viewed as an opportunity for creativity, an opportunity to develop a new method of inquiry and process.

Many factors have contributed to what we can now see was the inevitable emergence of public employee unions and the militancy with which they pursued initial organizational efforts. Paramount among all of these factors is the general philosophy of "individual rights" and "people power" that has prevailed since the late 1950s. In this environment the public service employee became bold enough to organize, to question critically and militantly the sovereign rights of government over its employees, and to insist that collective bargaining as practiced in the private sector become a part of government employment.

Whether in the private sector or the public sector, the reasons employees join unions are similar. Unions help employees meet needs in economic, psychological, social, and political areas:

1. Economic—The prime motivator for public service unionization in its early stages was economic. Public service employees wanted increases in salary and fringe benefits. In some public agencies without an effective merit system, employees turned to the union for their economic security against layoff, suspension, or dismissal, exactly as in industry. Today, economic factors are not always so dominant as they were in the past. In contract negotiations a favorite tactic of a union is to lead management to believe the critical importance of a strictly economic demand in hopes of later "conceding" this demand for a "lesser" noneconomic demand that has far greater long-range ramifications, including eroding management's prerogatives to manage resources.

2. Psychological—All human beings want to be recognized; they want to feel important. Many jobs do not offer this type of satisfaction because of either the nature of the job or the management of the work unit. Unions afford personal recognition to

employees through committee work and through union leadership positions in a work unit or union local. They also afford an even more important function to all members in decision-making participation through union meetings. Unions have recognized the importance of the psychological factor, often to their own consternation. It is often the case that local demands and individual grievances with no substance or validity are adamantly pursued or defended by a union officer or official only for the purposes of maintaining unity. Management must recognize this "internal political" problem of the union and learn to "play the game without conceding any points."

3. Political—The union is a political organism that is involved in many reforms even outside of the realm of actual working conditions and conditions of employment. For its own personal gain it does get involved in the issues of the day such as the support of political candidates, employment and training of minorities and the disadvantaged, taxation and representation issues, public housing, mass transit, and the like. For many workers the union fulfills the need of an employee for political involvement. Civil service laws that traditionally have prohibited an employee from participating in political activity can be circumvented through a labor union.

4. Social—To many employees the union is a social club. Early unions were often called brotherhoods. The custom of calling fellow members "brother" or "sister" still prevails in many unions today. The gathering together of persons with common backgrounds is not an unusual phenomenon. Monthly and annual meetings and conferences, annual picnics and parties, and individual social ties among members of common background and economic status are all contributory to meeting the social needs of the union member.

Recognizing the role of unions in the welfare of employees in business and industry, federal and most state governments for over a quarter of a century have established the policy of encouraging and protecting the organization, growth, and development of unions and collective bargaining for employees in the private sector.

The Wagner Act, enacted in 1935, created labor relations as we know them today. The Wagner Act granted employees in the private sector the legal right to organize and bargain collectively with their employers. Ground rules for this new employer-employee relationship were established. Of utmost importance were the items that made up unfair labor practices. Actions that had been common practice by employers before passage of the Wagner Act were now unfair labor practices. Among these were the following:

1. Interfering with or coercing employees in their attempts to organize,
2. Discrimination against employees for their union activity, and
3. Refusal to bargain collectively with a union representing employees.

The Wagner Act excluded those employees working in establishments whose business did not involve the crossing of state lines or whose minimum annual trade across state lines was less than $50,000. Dissatisfaction, dissent, and collective action on the part of private industry employees excluded from the provisions of the Wagner Act were rewarded with tangible results in a number of states, among them Wisconsin. Through the passage of the state's "Little Wagner Act" in 1937, these employees were afforded practically identical benefits and protection that other employees were granted under the Wagner Act. Public service employees continued to be excluded from the rights to organize and to bargain collectively.

Throughout the years since enactment of the Wagner Act there have been numerous improvements in the labor laws of this country as they affect the private sector. Today the national labor policy for the private sector of our economy provides the following:

1. That employees have the protected right to form and join unions of their own choosing for the purpose of bargaining collectively with their employers over wages, hours, and conditions of employment and that employees have the right to refrain from any and all such activities;

2. That the majority representative chosen by the employees shall be recognized by the employer as the exclusive representative for the purpose of collective bargaining;

3. That managerial, supervisory, or confidential employees are excluded from bargaining units selected by the employees;
4. That employers and employees have the duty to bargain collectively in good faith and to enter into written agreements;
5. That employees have the right to avail themselves of a grievance procedure, including binding arbitration of grievances arising over the interpretation of the terms of the labor agreement;
6. That employers and employees may utilize mediation services to assist them in resolving labor disputes;
7. That state and federal administrative agencies will determine questions of representation and will enforce and protect the rights established by statute; and
8. That employees have the right to engage in concerted activities, including the right to strike in pursuance of their demands at the bargaining table.

Collective bargaining in the public sector was initially viewed as codetermination. Public service administrators and lawmakers felt that the collective bargaining process was inappropriate for government employer-employee relations. It was argued that units of government, being sovereign, could not delegate or share their sovereign power and that (a) the fixing of conditions of work in the public service is a legislative function that neither the executive nor the legislature may delegate to any outside groups, (b) the legislature or executive must be free to change the conditions of employment at any time and thus cannot set for a fixed period of time or bind a subsequent executive or legislature by its action, and (c) exclusive recognition under collective bargaining is at odds with the principle of equal treatment of all employees (1).

Under the guise of objectivity and equal rights, a number of states including Wisconsin did attempt to deal with the issue of collective bargaining for public service employees, but sovereignty and unilateral decision-making kept creeping into the picture. Legislatures required answers to the following time-delaying questions before they could give serious thought to collective bargaining rights in any form for public service employees:

1. What is the proper scope of bargaining in public employment; are there legal limitations on bargaining with respect to budgets or civil service matters?
2. What are the conflicts between civil service procedures for handling grievances or other conditions of employment and collective bargaining solutions for the terms and conditions of employment?
3. What is the effect of budget deadlines on collective bargaining in public employment?
4. Can a public employer enter into signed labor agreements with a labor organization?
5. Can a public employer enter into union security agreements?
6. What are the rights of minority employee organizations to make their views known to the public employer on contract terms or to represent employees in grievance matters?
7. For what period of time may a collective bargaining agreement be entered into in public employment, and may the terms of the agreement be made retroactive?
8. Should failure to bargain in good faith be made an unfair labor practice in public employment? If so, should it be enforceable against the public employer or the public employee organization?
9. May collective bargaining sessions be held in executive session? How is the public's right to know dealt with?
10. May final and binding arbitration be used to resolve grievances (2)?

While legislatures and the Congress debated these questions with no apparent urgency to find answers, the public employee became restless for collective bargaining rights. (Is it not surprising that some of these same questions are still being asked, are still being debated, and still remain unanswered while collective bargaining is today a fact?)

Public employees and even public interest groups started to question the rationale and logic of the statement by the U.S. Supreme Court that (a) public employees are so well taken care of by the government they serve that they need not band together to achieve better working conditions and (b) collective bargaining has not proved to be as necessary in public employment as it was in private industry.

Dissatisfied with this unilateral and unquestioned sovereignty, and the "second-class citizen" role that the public service employee claimed his employment put him into, he began to organize. In some instances the organization was in the guise of a social, technical, or professional association. In other cases it was in full view as a labor union with which to be reckoned.

As with so many social movements, radical and militant action was an integral part of the public employee's process to gain recognition. In direct defiance of state statutes and municipal ordinances public employees went on strike. This militant action, recognized as a social movement, was objectively evaluated by federal officials, state legislatures, city councils, county boards, and school boards. A society that was in the midst of and in accord with a number of social reforms provided a favorable environment; it accepted and supported the public employee's desire to bargain collectively with his employer. Even the American Bar Association's Committee on Labor Relations as early as 1955 had this to say:

> A Government which imposes upon other employers certain obligations in dealing with their employees may not in good faith refuse to deal with its own public servants on a reasonably similar basis, modified of course, to meet the exigencies of the public service.... While the duty of the legislative authority to fix salary and wages in the light of fiscal capacity of the government must not be impaired, no sound reason exists why such policies should not be the subject of reasonable negotiation with the duly constituted democratically chosen representatives of organized employees. Whether this is, or is not, called collective bargaining or collective negotiation or by any other name seems immaterial. The end result is what really matters.... Whether the terms of a collectively negotiated agreement shall, as is customary in private industry, be in the form of a written contract is really academic.... Government which denies to its employees the right to strike against people, no matter how just might be the grievances, owes to its public servants an obligation to provide working conditions and standards of management-employee relationships which would make unnecessary and unwarranted any need for such employees to resort to stoppage of public business. It is too idealistic to depend solely on a hoped for beneficent attitude of public administrators.

The first real inroad to collective bargaining for public service employees was won in 1958 by the employees of New York City, when the mayor of New York issued an executive order for city employees designed "to further and promote insofar as possible the practice and procedures of collective bargaining prevailing in private labor relations."

The order of the mayor was not a paternalistic action; it was issued after a period of chaos, conflict, and strife in the relations of the city and its employees. Public hearings following the period of conflict led to a report that recommended a uniform bilateral technique for actual participation by both sides in determining working conditions that would likely foster responsible and rational actions on both sides to the best interest of the efficient conduct of the city's business. Public service employees through militant action and in direct violation of law had won public support and obtained recognition as the first step in collective bargaining.

In 1962 Federal Executive Order 10988 gave federal employees limited bargaining rights. In 1959, the Wisconsin legislature passed its first law for collective bargaining in the public sector. In 1965 Michigan and Connecticut enacted collective bargaining laws for public service employees. These laws all provided public employees the right to organize for their mutual aid and protection, to participate in various ways through representatives of their own choosing in formulating terms and conditions of their employment, and to present grievances and have these grievances resolved fairly. Each of these laws also provided for a labor relations or mediation and arbitration board to ensure that the basic rights established through laws were enforced.

The past decade is a history of almost unbelievable growth in the area of collective bargaining in all units of government.

A review of public service collective bargaining laws that have now been passed and of the contracts that have been written under these laws raises several questions:

1. Were legislatures reacting under the pressure of the times, too generous in the number and scope of collective bargaining rights given to public employees? Did they include in statutes items that unions in the private sector had gained through "hard-nosed" bargaining over a number of years at the expense of concessions on their part?
2. When passing public service collective bargaining laws, were too many of the questions that legislators initially felt had to be answered left unanswered? Does this now result in laws that are subject to varying interpretation, that are difficult to administer, and that have led to undue labor-management conflict at the bargaining table?
3. Will public service administrators and supervisors learn soon enough that continuing paternalism will be exploited by the union at the expense of management's right to manage?

Collective bargaining in the public sector is a "new way of life." The employee has chosen a representative to bargain for his well-being. Through his union representative the employee will demand. His initial demands may be totally unacceptable and may often border on ridiculousness. If the collective bargaining process is to be a positive and creative one, management must in the process take as well as give.

OVERVIEW OF AND EXPERIENCES UNDER WISCONSIN'S EMPLOYMENT RELATIONS LAW FOR PUBLIC EMPLOYEES

Wisconsin has long been a forerunner in the enactment of labor legislation. The first workmen's compensation statute in the nation was passed into law by the Wisconsin State Legislature in 1911. In 1932, Wisconsin enacted the nation's first unemployment compensation statute. In 1937, along with several other states, Wisconsin enacted a "Little Wagner Act" to provide collective bargaining rights to those private sector employees excluded from collective bargaining rights under the federal Wagner Act. In 1939, Wisconsin enacted the Employment Peace Act, the first legislation in the nation that made labor-management relations for private sector employees a two-way street. It established unfair labor practices by labor. Prior to this time only management could be charged with an unfair labor practice; labor had been immune to such a charge. The basic provisions of the Taft-Hartley Act are virtually line for line from the Wisconsin Employment Peace Act.

In 1932, the parent American Federation of State, County, and Municipal Employees (AFSCME) had its birth in Wisconsin. A small group of Wisconsin state employees, including the director of the State Bureau of Personnel, the head of the state's civil service agency, formed the Wisconsin State Employee's Association (WSEA) and received an AFL charter. Through this association's leadership AFSCME, in December 1935, became a formal nation-wide organization. It is interesting to note that the birth of AFSCME occurred in the same period that the federal government's Wagner Act was passed. Public service employees were organizing, recognizing full well that their organizations had no legal recognition.

Since its inception in 1932 the WSEA has continued to grow. It became Council 24 of AFSCME. Locals were organized throughout the state. A full-time professional staff of labor relations experts was hired and based in Madison.

For years WSEA operated effectively as a quasi-union. It enjoyed no legal status for collective bargaining. However, in some departments and institutions it did in fact get involved in bargaining. A number of public service administrators were voluntarily meeting with WSEA representatives and discussing work schedules, health and safety, working conditions, and the like. Many of these administrators were not aware that they were not obligated to discuss any matters with the WSEA. Other administrators were unwilling to cope with the conflict that inevitably arose if they refused to meet with the representatives. The WSEA was also active as a lobbying group in the legislative chambers. It gained the respect of many legislators and was successful in

obtaining economic gains for state employees. Before the State Personnel Board the WSEA voice was heard in matters of job classification and the assignment of job classifications to salary ranges. To member employees it provided legal counsel and representation before the State Personnel Board and the courts in discharge, suspension, classification reduction, or other personnel action cases where it felt an employee had been treated unjustly. For an association that had no statutory rights as a union, WSEA was enjoying more than a limited degree of success through informal bargaining and substantial success through lobbying.

In many county units of government public employees represented by councils of AFSCME fared even better. Many county boards gave these councils voluntary recognition as unions and many of the rights afforded to a union. They accepted the union's demands, bargained on the demands, and entered into contractual agreement with the union. The Wisconsin Employment Peace Act was the probable reason behind this voluntary recognition of unions. County board members were elected officials who in many cases ran businesses covered by the Employment Peace Act. They had experience in dealing with unions and were comfortable with the collective bargaining process. With no legal restrictions against voluntarily recognizing unions, voluntary recognition was given. The majority of these voluntarily recognized unions were in county highway departments and in county homes and hospitals.

In 1959, the Wisconsin state legislature, by statute, provided collective bargaining rights to all public service employees except those in the state government. Amendments in 1962 and 1971 made the act more meaningful to both labor and the units of government covered. The Wisconsin Employment Relations Commission (WERC) was given the responsibility and authority to administer the act. WERC was, and still is, responsible for the following:

1. Determining questions of representation,
2. Making bargaining unit determinations,
3. Enforcing the prohibited practices section of the law,
4. Certifying unions after successful representation elections,
5. Making its mediation services available to municipal employers and labor organizations, and
6. Conducting fact finding in the event that the parties are deadlocked in negotiations or in the event that either party fails or refuses to meet and negotiate in good faith at reasonable times in a bona fide effort to arrive at a settlement.

The act provided that an agreement reached in negotiations with a certified union must be reduced to writing in the form of an ordinance, resolution, or agreement. Strikes are specifically prohibited.

Since 1959, about 60 strikes have occurred in the public sector. This points out a known fact that a no-strike statutory restriction or a no-strike contractual clause will not prevent strikes from occurring. The fact that there have been only 60 strikes indicates that public sector collective bargaining is working. The number of strikes is even less significant considering that almost every county, city, town, and village government bargains with a number of unions.

To date the greatest percentage of strikes has been among school teacher groups. The lack of knowledge on the principles of collective bargaining and the lack of expertise at the bargaining table by both teachers and school boards have been the major contributory factors to these strikes. It has been a tendency for both boards and teachers to "personalize" the conflict. Collective bargaining became a dispute between the bargainers rather than a dispute over the issues. Both parties are now recognizing their shortcomings. The Wisconsin Education Association has established a full-time professional employment relations service for local teacher organizations. School boards are increasing their use of professional consultants to assist them in collective bargaining.

After more than 5 years of experience under the municipal collective bargaining statutes, unions representing state employees increased their efforts to attain legislation to cover state employees. In the forefront of this effort was WSEA, Council 24,

AFSCME. In the closing days of its 1966 spring session the legislature enacted the State Employment Labor Relations Act (SELRA). The act became effective on January 1, 1967. A summary of the significant features of the act follows:

111.80 *Policy*—statement recognizing need and desirability of collective bargaining in state government which operates within the existing framework of laws, rules, and policies governing state employment and the public safety and interest.

Provides for establishment of Division of Employment Relations in Bureau of Personnel along with appointing authority to represent the state in bargaining with employee organizations for purposes of maintaining equitable and consistent statewide employment relations policies and practices.

111.81 *Definitions*—includes provision of greater latitude than currently exists in municipal law 111.70 for Wisconsin Employment Relations Board to determine appropriate bargaining units based on needs and circumstances of public employment.

Includes definition of strike and provides for employer's right to impose discipline, suspension without pay, or discharge on participants; plus the right to seek court action against the employees and/or labor organization involved.

Defines "state employee" excepting supervisors, management personnel and confidential employees as well as all employees of the Wisconsin Employment Relations Board.

Defines term "supervisor."

Defines term "professional employee."

111.82 *Rights of State Employees*—provides for right of employees to join or not join labor organizations and to bargain collectively.

111.83 *Representatives and Elections*—provides machinery and procedures for determining representation of state employees.

111.84 *Prohibited Practices*—enumerates same for both employer and employee. Provides for phasing out of supervisors as active members or officers of employee organizations over period of 4 years.

Makes it a prohibited practice for state employer to refuse to bargain or violate terms of written agreement.

Provides for "dues check off."

Prohibits strikes, slowdowns, or other work stoppages.

111.85 *Prevention of Prohibited Practices*—provides machinery for referral of complaints to Wisconsin Employment Relations Board.

111.86 *Arbitration*—establishes use of this technique to settle a dispute on mutual consent of both parties.

111.87 *Mediation*—allows Wisconsin Employment Relations Board to appoint a mediator in disputes at the request of one of the parties.

111.88 *Fact Finding*—establishes use of fact finding in cases where Wisconsin Employment Relations Board determines there is a deadlock between labor organization and the appointing authority and the division of employment relations.

Requires fact finder to include considerations of public personnel and merit system concepts and principles in his findings and recommendations.

111.89 *Agreements*—provides for written agreements between the parties for up to 3 years' duration. Requires approval of all agreements by division of employment relations.

111.90 *Management Rights*—identifies and enumerates prerogatives of state employer including:

(a) Carry out the statutory mandate and goals assigned to the agency utilizing personnel, methods, and means in the most appropriate and efficient manner possible.

(b) Manage the employees of the agency; to hire, promote, transfer, assign, or retain employees in positions within the agency and in that regard to establish reasonable work rules.

(c) Suspend, demote, discharge, or take other appropriate disciplinary action against the employee for just cause, or to lay off employees in the event of lack of work or funds or under conditions where continuation of such work would be inefficient and nonproductive.

111.91 *Subjects of Collective Bargaining*—lists those conditions of employment subject to collective bargaining including:

(a) Grievance procedures;

(b) Application of seniority rights as affecting the matters contained herein;

(c) Work schedules relating to assigned hours and days of the week and shift assignments;

(d) Scheduling of vacations and other time off;

(e) Use of sick leave;

(f) Application and interpretation of established work rules;

(g) Health and safety practices;

(h) Intradepartmental transfers;

(i) And such other matters consistent with this section and the statutes, rules, and regulations of the state and its various agencies.

111.92 *Board Rules and Regulations*—gives Wisconsin Employment Relations Board authority to implement their role in state-level bargaining.

111.93 *Advisory Committee*—allows Wisconsin Employment Relations Board to enlarge its advisory committee to include state officers and state employee representatives.

Though wages and fringe benefits have not been bargainable under the provision of SELRA, as stated above, unions representing state employees did make their demands in these areas known in the legislative chambers. Strikes were threatened if economic demands were not met. The lobbying of these unions influenced the legislature, which finally granted salary increases and fringe benefits to state employees.

The obvious dissatisfaction of state employee unions with a collective bargaining law that did not allow for the negotiation of wages and fringe benefits resulted in pressure on the legislature by the WSEA and other union groups for a revision in SELRA. Management also was somewhat dissatisfied with the law and supported efforts for revision. The management rights clause (section 111.90) was thought to be quite precise, but the enumerated subjects of bargaining (section 111.91) modified this clause. The unions were in essence bargaining on two fronts, formally with departments and informally with the legislature, to the unions' advantage. The limited scope of formal bargaining subjects led to "concessions" at the bargaining table that restricted management's necessary flexibility to manage.

On April 29, 1972, upon the recommendation of the Governor's Advisory Committee on State Employment Relations, the legislature enacted a revision to SELRA. The revision expanded the subjects of bargaining to include wages and fringe benefits. It also changed bargaining units from units within individual departments to statutory statewide units that cross department lines. The bargaining units established are as follows:

1. Clerical and related,
2. Blue collar and nonbuilding trades,
3. Building trades-crafts,
4. Security and public safety,
5. Technical,
6. Professional-fiscal and staff services,
7. Professional-research, statistics, and analysis,
8. Professional-legal,
9. Professional-patient treatment,
10. Professional-patient care,
11. Professional-social services,
12. Professional-education,
13. Professional-engineering, and
14. Professional-science.

The act also provides for establishment of two statewide bargaining units of supervisory personnel: one unit of professional supervisory employees and one unit of nonprofessional supervisory employees. A labor organization seeking to represent supervisory employees may not be affiliated with any labor organization representing nonsupervisory employees. Bargaining for supervisory employees is limited to wages and fringe benefits and excludes all other conditions of employment.

There is recognition that additional or modified statewide units may be appropriate in the future. WERC is given authority to establish additional units after July 1, 1974. The declared legislative intent is, however, to avoid fragmentation whenever possible.

To gain recognition as the bargaining representative for employees assigned to one of the statutory bargaining units, a labor organization must petition WERC for certification. WERC then conducts a hearing to resolve any issues relating to assignment of individual classifications to particular statutory units. WERC also resolves any issues relating to supervisory and confidential exclusions. It then conducts a statewide election for all employees assigned to the unit to determine whether the employees want a union to represent them and what union they want to represent them. A union gaining a majority vote of the bargaining unit employees who cast a ballot will then be certified to represent all employees of the bargaining unit.

The subjects of bargaining under the revised SELRA include:

1. Wages—A separate salary schedule for all classifications assigned to the particular bargaining unit is initially established from the present state civil service classification and compensation plan. General overall increases to established salary schedules will be bargainable. Individual increases for particular classes within a salary schedule are not bargainable. Additionally, the salary adjustments for temporary assignment of duties in a higher or lower classification are bargainable.
2. Fringe benefits—All recognized fringe benefits are bargainable including vacation, sick leave, retirement benefits, health insurance, holidays, and bonuses. The coverage, scope, and content of health insurance and retirement are not bargainable until July 1, 1974. Unions are permitted to bargain immediately on employer contributions for insurance premiums.
3. Conditions of employment—The law enumerates management rights and prohibited subjects of bargaining. With these exceptions all conditions of employment are proper subjects of bargaining. This would include such things as work schedules, work rules, lunch and rest periods, safety rules, subcontracting, changing of established past practices, travel expense procedures, and overtime distribution and payment.

Under the new act the state is prohibited from bargaining on the following:

1. The mission and goals of state agencies as set forth in the statutes;
2. Policies, practices and procedures of the civil service system relating to (a) original appointments and promotions specifically including recruitment, examinations, certification, appointments, and policies with respect to probationary periods and (b) the job evaluation system specifically including position classification, position qualification standards, establishment and abolition of classifications, assignment and reassignment of classifications to salary ranges, and allocation and reallocation of positions to classifications and the determination of an incumbent's status resulting from position reallocations; and
3. Amendments to this subchapter.

The act also provides that the following are management rights under statute and as such not required subjects of bargaining. The employer may (a) carry out the statutory mandate and goals assigned to the agency, utilizing personnel, methods, and means in the most appropriate and efficient manner possible; (b) manage the employees of the agency, hire, promote, transfer, assign or retain employees in positions within the agency, and in that regard establish reasonable work rules; and (c) suspend, demote, discharge, or take other appropriate disciplinary action against the employee for just cause or lay off employees in the event of lack of work or funds or under conditions where continuation of such work would be inefficient and nonproductive.

Bargaining under the provisions of the state's new collective bargaining law is the responsibility of the State Department of Administration, Division of Employment Relations. Operating departments through membership in an employment relations council, through participation in committees, and in direct consultation with the State Division of Employment Relations are involved in all of the prebargaining determinations and strategies.

The management bargaining team for each unit is expected to include five members: one member from each of the two departments with majority representation in the unit and three members from the state's Division of Employment Relations. The management bargaining team for each unit will include at least one labor relations lawyer.

Any agreement reached in bargaining will need legislative approval. A Joint Committee on Employment Relations composed of eight members of the legislature has been established to provide liaison between the legislature and management bargaining team during negotiation. It is intended that this committee represent the views of the legislature in caucuses during the negotiations process. The committee is composed of the following members of the legislature:

1. Senate, co-chairman, Joint Committee on Finance,
2. Assembly, co-chairman, Joint Committee on Finance,
3. Assembly majority leader,
4. Assembly minority leader,
5. Senate majority leader,
6. Senate minority leader,
7. Speaker of the assembly, and
8. President pro-tempore of the senate.

Three statewide bargaining units have to date been certified by the WERC under the revised SELRA. The units certified are technical, security and public safety, and blue collar and nonbuilding trades. Negotiations with these three units began in November 1972. The Wisconsin Department of Transportation, having majority membership in both the technical and the security and public safety units, is represented on both of these bargaining teams. Because the Wisconsin State Employees Union has been certified as the representative of all three of these units, it was agreed to bargain as many basic contract provisions as possible for all three units by one master team before negotiating in the unit teams those items peculiar to that unit. The Department of Transportation is represented on the master bargaining team.

Though the Department of Transportation has not yet had any experience with a contract under the new Wisconsin State Employment Labor Relations Act, we did have extensive experience under the old act, which excluded wages and fringe benefits as subjects of bargaining.

The Wisconsin Department of Transportation negotiated two contracts with its employees under the provisions of the previous SELRA, which will remain in effect until July 1, 1973. One agreement was with the State Highway Engineers Association; the other was with the Wisconsin State Employees Union, Council 24, AFSCME, AFL-CIO. All employees in the Department of Transportation with the exception of management personnel, supervisors, confidential employees, and limited-term employees are included in one of the two bargaining units. Relations with both unions have been amiable. From the approximately 3,400 employees under contract, about 10 grievances per month are being filed. Four grievances are currently in the arbitration process. We have had no strike threats to the department either during or after negotiations. Our most pressing problem is one of getting our supervisors and managers to recognize that they are management and that continuing paternalism erodes or sets the stage for erosion of management's rights at the bargaining table.

The Public Personnel Association has published a book, Questions and Answers on Public Employee Negotiations, that every public service administrator will find invaluable in preparing for collective bargaining. The following four points brought out in this book should be remembered:

1. Never attack the security of the union. Once it gains recognition, it must remain in business in order to serve its members. Any effort to weaken the union as an organization will almost certainly fail. Written agreements, recognition clauses, and dues deduction are basic to the health of the union. Members will rally around the union in case they are attacked.

2. Never hesitate to disagree with the union position on any issue. Recognition means negotiation not capitulation. Management can still manage under a proper union agreement, unless it voluntarily gives up its rights. Only the process of management is different. We recognize that negotiations may lead to a compromise that would not have been necessary under a unilateral system. But as long as no principle is compromised, the result is not necessarily bad. In fact, it might even be an improvement; management is not necessarily right all the time.

3. In establishing a relationship with a new union, management must be prepared for the change. This means setting forth clear policies and, then, educating all echelons of supervision in these policies and how to carry them out.

4. Organizing of a union does not necessarily represent a failure on the part of management in supervising its work force. There are unions in the most liberal and enlightened of organizations, both public and private.

Collective bargaining is not a process to be handled by amateurs. It is an art gained through long experience with labor boards and commissions and conferences and meetings with policy-makers in determining counterproposals and strategy, long hours of tough bargaining, and extensive handling of grievances and arbitration cases. If you do not have an employment relations specialist on, or available to, your staff, I would suggest you get one before the union knocks on your door.

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