

# Public Transportation Employee Collective Bargaining

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Committee on Maintenance and Operations Personnel

The rapid increase of collective bargaining strength of public transportation employees was explored at a conference session presided over by Charles T. Edson, New Jersey Department of Transportation. This paper contains summaries of presentations by Joseph Adler, American Federation of State, County and Municipal Employees, AFL-CIO; James F. Kelley, Massachusetts Department of Public Works; William P. Hobgood, Federal Mediation and Conciliation Service; and Alfred L. Miller, Federal Highway Administration. The paper also contains an edited transcription of the question and answer session.

The image of security and prestige associated with employment in the public sector before and for a decade and a half after World War II has faded. Public employees have, in large numbers, lost faith that they will be fairly treated by their employers. These changes have contributed to rapid growth in public employee union membership. John Hoerr stated in the August 30, 1976, issue of Business Week that more than half of the 14 million state and local government workers are now represented by unions. Such a rapid increase in collective bargaining strength has seemed menacing and has led to the widespread belief that management is helpless to resist raids on public treasuries by a strong voting bloc. There is evidence that this power does exist to some extent and that abuses have probably occurred. On the other hand, city and state public employee layoffs during the recent recession and the collapse of strikes in some cities demonstrate that management can mobilize public support and that the results of collective bargaining need not be one-sided.

The Committee on Maintenance and Operations Personnel believes that the presentations and discussions at this session support the view that unions have a more cohesive and well-directed program to achieve their aims than public bodies have and substantiate John Hoerr's statement, "The dilemma, briefly put, is that the nation has yet to develop a cohesive policy for dealing

with the rapidly growing power of public unions, particularly at the municipal and state levels."

## JOSEPH ADLER ON COLLECTIVE BARGAINING: A UNION POINT OF VIEW

Public employees have as much right to collective bargaining as private sector employees have. Public employees are being used as scapegoats by political executives in their effort to place the blame on someone for the problems of the economy. The economic situation must improve to bring about changes in the public sector including improving the financing of state and local government services, productivity of employees, impasse procedures and arbitration, and quality of public management. The ultimate reform, of course, is to institute collective bargaining as a federal law and thus guarantee public workers their right to bargain with unions and employers.

## JAMES F. KELLEY ON UNIONISM IN THE MASSACHUSETTS STATE HIGHWAY DEPARTMENT

Unionism as it exists in Massachusetts is effective in resolving labor-management problems. Collective bargaining, described as a method of determining employment conditions through negotiations between employer and employees, was not easily acquired in Massachusetts. In 1969, legislation was finally enacted that strengthened collective bargaining. The pertinent sections of this legislation have been set forth in detail. Management must be fully versed in collective bargaining procedures to deal with the unions. Employees receive many benefits from membership in the union and have the collective voice needed to make their needs known. Employers benefit from unionism in that they can require standards of performance and can eliminate grievances at different management levels. Unionism has progressed slowly in the public sector, but it is now growing fast and is being accepted by both employers and employees.

## WILLIAM P. HOBGOOD ON MEDIATION IN COLLECTIVE BARGAINING

Mediation is described as a voluntary process in which the mediator operates through persuasion and suggestion to get both parties into a common area of agreement. In the private sector, this process has generally been successful. It is questionable whether, in the public sector, this service has jurisdiction under the Taft-Hartley Act. In conjunction with the increased growth of organization in the public sector, mediation has increased. Differences between private and public sector bargaining involve the question of recognition and the procedures used for dispute resolution; the rule that a mediator must deal strictly with those at the bargaining table; the fact that the mediator must play a more aggressive role with the media as a result of the high visibility of public disputes; and the stance that the mediator should take in representing the public interest in a dispute. In the private sector, the mediator's concern is not with the quality of the settlement, but simply with the settlement itself. One of the most difficult problems is dealing with the open bargaining laws of many states and their impact on the mediator's effectiveness. Questions such as these need much more discussion as the role of mediation services in the public sector expands.

## ALFRED L. MILLER ON COLLECTIVE BARGAINING: A TRAINER'S POINT OF VIEW

Statistics show that unionism in the public sector is on the rise. From a trainer's point of view, management must be presented with a plan of action that will minimize problems in the transition into collective bargaining. For an ideal management-employee relationship to exist, courses must be designed to effect an understanding of the collective bargaining process. A training program in collective bargaining procedures must be established to ensure good labor-management relations.

### QUESTION AND ANSWER SESSION

#### Question

How does one ensure legislative support for collective bargaining agreements?

#### Answer

This problem can occur through failure of the legislature to delegate enough authority to bargainers. It can be overcome by including legislators on the bargaining team, by including on the bargaining team representatives from the state treasurer's office who are aware of budget limitations, or by obtaining advice from leaders in the legislature on an acceptable area of settlement that they are willing to firmly support.

#### Question

Is arbitration a fairer approach than collective bargaining in the settlement of labor disputes?

#### Answer

Arbitration should not replace collective bargaining, but it may be used as a last resort. A need exists to develop a greater number of arbitrators with sufficient expertise to resolve public sector disputes. Such individuals must be sensitive to public interests and reaction.

A private sector arbitrator often applies private sector concepts too glibly in public sector problems. They must be aware of and sensitive to the differences.

Arbitration should be an evolutionary process in any bargaining relationship. Until that relationship matures and the parties understand the process, an indoctrination period must take place. This period need not be so long for the public sector as for the private sector. Voluntary participation is the key to the success of the bargaining process. Australia went directly into arbitration. Most commentators there would probably say that they wish that they had followed the American pattern even though it is more chaotic and disruptive in certain situations because it is a more maturing process.

#### Question

What about the arbitration of disputes involving emergency personnel such as police and fire fighters?

#### Answer

Voluntary arbitration for police, fire fighters, and other emergency personnel should come only as a last resort. The collective bargaining process works, and arbitration should not replace that process.

#### Question

What are the conflicts between merit systems and collective bargaining in the public sector? How can they coexist?

#### Answer

All cities and states do not have equitable merit systems, and collective bargaining provides equity to the worker. Good merit systems should be preserved, not eliminated.

In Massachusetts, civil service is not subject to collective bargaining. Therefore, promotions, where civil service exists, will still be covered by civil service. In the labor service, however, promotion is based mostly on seniority, and that is the area where the local union gets involved in the development of a contract.

#### Question

Is collective bargaining one-sided? Does most of the strength reside on the union side?

#### Answer

The pressure is not as one-sided as you might think. Discussions, held in closed sessions, do not afford opportunities for elected officials to bargain away management prerogatives in the hope of gaining votes by public statements of support for the union position.

Legislatures and mayors have short memories, and union support does not mean much after the elections. Pressures from the bottom may work where union grievances are concerned, but the pressures from the top are just not there.

#### Question

Why have public agencies seemed to be so powerless to resist union pressures?

#### Answer

The most serious defect in the early stages of public

sector bargaining was lack of expertise at the table. I think that as expertise increases management will be less vulnerable to that type of pressure. People have been found who would negotiate a political agreement that was not really in anyone's interests but that looked pretty good on paper. Many management prerogatives and work rules changes were hidden in agreements that are going to come back to haunt both parties in the future.

Question

What about "sunshine bargaining"?

Answer

After some serious analyses and talking to many mediators who have just experienced it, in Florida particularly, one finds that it does not help at all. There should be full disclosure, there should be no under-the-table deal, there should be no memoranda of agreement that are hidden, but the process itself is just too sensitive and too emotional in many cases, and too politically oriented, to respond constructively to sunshine law procedures.