

# Public Sector Labor Relations:

## A System Struggling to Adjust to the Financial Crisis

ROBERT MCKERSIE

Setting the stage for this article is not difficult. The newspapers these days are filled with accounts of budget cuts, layoffs, proposals to eliminate or drastically restrict the role of collective bargaining, and a piling on of critical comments about the state of public sector labor relations.

I went to the Internet and typed in “public sector unions.” In summarizing the first twenty-five items out of almost six million listings, two-thirds could be described as presenting unions in a negative light, with such headlines as “Public Sector Unions Have Hollowed Out America”; “Public Sector Unions and the Rising Costs of Employee Compensation”; and “Public Sector Unions Bankrupting America.”

### Why Change Has Been So Difficult

Space does not permit a comprehensive treatment of the subject. Rather, I have opted to analyze why the change or adjustment process has been so difficult. Some of the reasons are generic to all employment situations, and the experience with concession bargaining in the private sector during the 1980s is pertinent. However, some of the reasons go to the unique nature of unionism in the public sector: a political institution positioned within government that is also, at its core, political.

The pressure on public sector unions

to agree to concessions has been especially intense with regard to health care. The costs of most plans have been increasing between 10 percent and 15 percent per year. Town managers and other officials have used the argument that since public workers typically pay a lower fraction of the cost than their counterparts in the private sector, they should be asked to accept increases in co-pays, deductibles, and premium-sharing percentages.

While changes have been agreed to in many cases, this has not happened without considerable contention and controversy. It may be hard for citizens to understand this resistance to change, especially when they realize that the health care programs enjoyed by public workers are often better than those available to citizens in private sector employment. But there are many reasons for what is often seen as “foot dragging.” First and foremost is the point often made by union leaders: “Unions are supposed to bargain for good benefits; we should not be penalized for having gotten good benefits for our members.” Added to this is the following argument: “We didn’t create the budget crisis and what’s more we accepted lower pay over the years in trade for good benefits.” Union leaders have ample reason to be wary of management coming “hat in hand” asking for concessions: “Now they want partnership when times are tough. They never reached out to us

before.” And it must be recognized that rarely have union leaders been elected on a platform of granting major concessions to management.

The last argument goes to the heart of the disconnect that characterizes much of what goes on in collective bargaining in the public sector today, namely, unions looking back, and management looking ahead. Unions remember the years when, due to previous financial crises, they took “zeros” for wage increases. By contrast, management looks ahead and focuses on budget uncertainties, specifically, the possibility of further cuts in state and federal funding.

### Decentralized Collective Bargaining

In the decentralized structure that characterizes collective bargaining in the public sector, union leaders naturally look around and ask: “What are my counterparts doing?” During 2010 all municipalities in Massachusetts were given the option of engaging their unions in coalition bargaining with an eye to joining the state health care plan. The result: not one municipality was able to convince its unions and members to make the shift. Given the fact that joining the state plan would have saved significant sums for both the municipalities and employees, many citizens wondered why no movement. One key reason: shifting to the state plan would take away the right to bargain over health care, and the unions were not willing to give up this important right.

In retrospect, if there could have been a consolidated approach to bargaining with all municipalities, a different result might have emerged. Ironically, it looks like the Massachusetts legislature is going to pass legislation mandating the move to the state plan—and the unions may not gain any *quid pro quos* that were on the table as inducements to join the state plan. The town of

Arlington, Massachusetts, is a case in point. The town offered wage increases that totaled 4 percent over three years. Now unions face the prospect of being forced into the state plan without receiving any inducements in return.

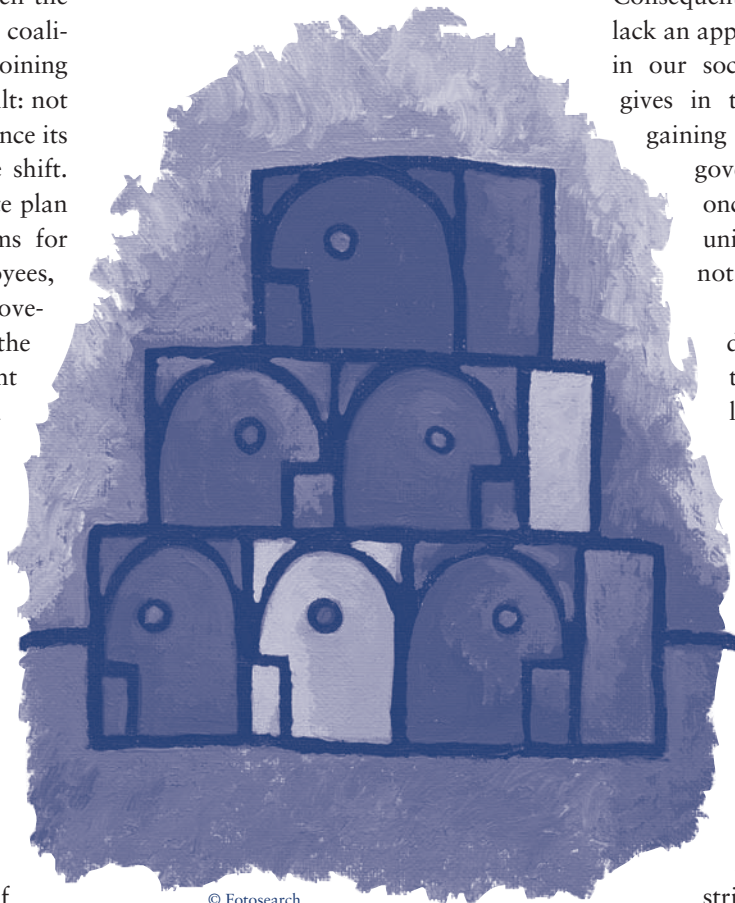
The important point is that the collective bargaining structure needs to match the problem at hand. All of the towns and cities in Massachusetts face the same cost issues with health care, and all the municipal unions were given the same opportunity to generate savings by joining the state plan. However, no *individual* labor leader wanted to run the risk of taking members away from existing plans and into a new, uncertain environment. Politically, it is easier for elected leaders to live with a dictated change (when the state legislature mandates the shift) than to recommend a new program that may have downsides for some members. Elevating negotiations

to a more multi-union, statewide level would provide more room for maneuver by union leaders. Such was the case when a coalition of unions negotiated with Massachusetts state officials to merge multiple agencies and bargaining units into a single transportation agency. In that case some innovative new compensation arrangements resulted, including a provision for sharing the gains from the savings realized by the merger.

### Appreciation for and Misunderstanding of the Role of Unions

Why have matters evolved to the point where the state legislature in Massachusetts is poised to effectively take health care out of collective bargaining? While the rate of unionization of public employees has remained relatively stable, the corresponding rate for private sector union employees continues to decline. Consequently, more and more taxpayers lack an appreciation of the role of unions in our society. And what government gives in the realm of collective bargaining rights for public employees, government can also take away once the public is convinced that unions in the public sector have not acted responsibly.

Another source of misunderstanding arises around the decision by many public sector unions to decline various *quid pro quos* that would reduce the number of members scheduled for layoff. Often the proposals involve a wage freeze in a new contract or forgoing a scheduled increase under an existing contract. When union leaders in effect say to management “do what you have to, lay them off,” the pushback from the local community can be quite strident, given the reality that



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various services will be reduced, and in the case of parents who see class sizes increasing dramatically, there might be angry speeches and protests at school board meetings.

So why, in the face of public pressure, are unions not protecting the jobs of their “brothers and sisters”? One reason is captured by a comment made to a town manager who was proposing a freeze in salaries in exchange for reducing the number of workers targeted for layoff: “I have just done a quick calculation, and your proposal will cost me about \$2,000 per year in retirement pay.” Most public employees are covered by defined benefit plans, with retirement benefits often keyed to the last three years of salary. This employee had a financial plan in mind that assumed steady increases each year, at least sufficient to cover increases in the cost of living, and the town manager’s proposal undermined his plan.

Seniority is a concept that is deeply ingrained in the approach that unions take to all employment issues. To ask those who have devoted their careers in public service to forgo increases for the benefit of junior workers is a trade-off that many are not willing to make. And in a situation where “majority rules,” it does not take many workers showing up at the union meeting—and those who show up are more likely to be the ones who would be disadvantaged by concessions—for management’s proposal to be defeated.

Clearly, this is not an easy time to be a labor leader. Most labor leaders are aware of the financial stress being experienced by units of government. At the same time, they are also aware of the political realities of proposing changes that many, perhaps a majority, of the members find objectionable. Finding themselves in such circumstances, labor leaders search for integrative solutions. One such outcome would be to insist that management commit to a policy of No Layoffs. With such a guarantee in hand,

union leadership could possibly persuade the membership to accept concessions. However, given the severity of the financial crisis present in most jurisdictions, managers have not been able to offer a pledge of no layoffs. From the unions’ point of view, the difficulty with only a partial guarantee (“if the union accepts Y changes, we will lay off X fewer workers”) is that the union can never be sure that it is receiving a genuine *quid pro quo*. To paraphrase the argument in the union hall: “Management always exaggerates the numbers to be laid off. If we agree to changes, they will only reduce the number to be separated by a figure that they would have implemented regardless of what we do.” The lack of trust that is implied by this comment is not atypical of the tenor of labor-management relationships in the public sector. Consequently, most labor leaders are leery of accepting layoff avoidance deals unless they are comprehensive (No Layoffs!) and can be verified.

### The Best Traditions of Collective Bargaining

Must the readjustment process only be characterized by legislative actions that dictate changes, or where management takes unilateral action under the guise of avoiding bankruptcy? Can there be solutions that draw on the best traditions of collective bargaining as a problem-solving process?

Examples do exist. The Cornell University School of Industrial & Labor Relations (ILR) has published a series of “best practice” case studies illustrating that when the parties work together, mutual gains are possible.<sup>1</sup> Other possibilities come to mind. Voluntary furloughs—a program adopted after 9/11 by the airline industry—could be tested in the public sector. Certainly, early retirement represents another technique

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for adjusting (downward) the size of the workforce. A fairly radical idea would be to retrain government workers for placement in NGOs, either as volunteers or paid employees.

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to work in partnership. Too often the process degrades into accusations and stalemates. Unions and their members attack what they see as unnecessary perks for management—the use of “company” vehicles and budget appropriations for what appears to many as nonessential items, for example, the purchase of land for a nature preserve. Certainly, the principle of equality of sacrifice must be honored. This means that as the ranks of union members are thinned or they are asked to bear a higher portion of the costs of their retirement and health care benefits, the same reductions and sacrifices must take place in the ranks of management.

Collective bargaining in the public sector has been on the scene since the 1960s—almost half a century. A lot is at stake. Unions and management in the public sector can demonstrate that collective bargaining is up to the challenge of finding ways to place public finances on a sound footing, to ensure fair outcomes for employees and at the same time efficiently deliver valuable services to the public.

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#### NOTES

1. See D. Belman, M. Gunderson, and D. Hyatt, eds. *Public Sector Employment in a Time of Transition* (Ithaca, NY: ILR Press, 1997).

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