Negotiations: Yesterday and Today for Both Sides of the Table

by

Rhonda L. Newman
Disability Program Specialist
Alameda County Human Resource Services

Introduction

When I began my career in 1996 unemployment was 5.4 percent, the economy was healthy and employers had financial resources. All this made negotiations easier. Unions were confident they would get what they wanted in bargaining. Since then a great many economic and political changes have affected the negotiation process. This paper explores key changes from the perspectives of labor and management.

Historical Review

Labor negotiations exist to give employees a voice. An early example took place in 1849 when a group of San Francisco and Sacramento Carpenters came together as a collective and struck for an increase in wages to $16.00 per day. Their efforts succeeded in moving them up to $14.00 per day (California Labor Union History, OPEIU Local 3). Although there was no formal collective bargaining then, the strike worked as negotiating leverage.


Unions receive dues from their members to provide representation. Unions have a duty to provide equitable representation to all members; this is known as the “duty of fair representation.” This obligation includes negotiating working conditions and representing members through the grievance and arbitration process. Management and labor are required to work together in an attempt to reach mutual agreement. The formula sounds simple but many roadblocks may pose challenges. One challenge is economics.

Economic Challenges

Nationwide, shrinking tax revenues have crippled cities and counties. Public sector leaders have had to make some tough decisions to continue services to their citizens. In an article titled, “The Challenges of Negotiating Labor Agreements in Uncertain Times,” author Amanda Cuda wrote: “There is no
arguing that these are uncertain times for everyone. . . . Some might have to cut staff, freeze hiring for open positions, put off creating new positions and delay purchasing new equipment” (6).

Public sector employers face hurdles of insufficient funds when negotiating labor agreements. Therefore, unions are less likely to achieve everything they want. In some cases, employers pressure unions to accept forced furloughs and decreases in compensation for their members in addition to sharing more of the cost of health care and pension plans.

A great many represented employees have experienced zero cost of living increases over the last three to four years. In Alameda County management wages have not increased in four years. The Alameda County Management Employees Association (ACMEA) has conceded cost of living increases. Higher benefit costs have been absorbed by members to help prevent layoffs. (ACMEA Side Letter of Agreement 2/17/2012).

Labor is more likely to make concessions in times of economic crisis to save jobs. Also, management has been willing to unilaterally implement changes. M. Scott Miliniski, an arbitrator, mediator and labor relations consultant based in Pompano Beach, Florida, said, “Employers absolutely have a tougher time hammering out satisfactory union contracts in times like these. This will especially be true during the economic crisis, which has hit after several years of prosperity during which unions became somewhat used to getting, if not exactly what they asked for, at least something close.” (Cuda, 6). This brings challenges for labor when they are not able to meet the demands of members.

Joseph Adler, IPMA-CP, Human Resources director for Montgomery County, Maryland, agreed that bargaining with unions is almost always harder in a poor economy. Adler has more than 30 years of labor relations experience, more than a dozen of which were spent on the employee/union side of the table. He remarked that even his agency and others in the Washington, D.C. area are feeling the effects of the financial crisis. Though the likelihood of difficult union negotiations is just one challenge that Adler and his colleagues face, it is a major one (Cuda, 6). When employers and labor come to the table, a poor economy leaves them with fewer tools to negotiate with. This news may not be all negative; tough economic times can spark, what seems to be “creative bargaining.”

Not everyone believes that a poor economy and difficult labor negotiations are inextricably linked. Brian King said he actually finds that economic crises foster productive bargaining. “In many ways it is easier than in times when resources are more plentiful.” King is the Human Resources Administrator for the City of Irvine, CA. “During challenging economic times, employee groups often have realistic expectations, and the city and the employees work together with a
common interest in preserving services and the jobs that provide those services” (Cuda 7).

Alameda County has demonstrated a similar case with a budget deficit that has increased over the last 4 years and which has had a direct impact on negotiations. Although the unions and represented employees have agreed to forgo cost of living increases (COLAS) for a time period, they also now pay more out of pocket for health care and pension benefits in lieu of layoffs. “Creative Bargaining” occurs when management negotiates extra paid leave days off, initiates a “voluntary time off” program (which gave managers mandatory extra days off at the expense of the managers), and the elimination of vacation purchase for employees who accrue three or more weeks of vacation a year. Although these types of agreements may not be what the unions wanted to achieve, they demonstrate that both sides were willing to make sacrifices to preserve jobs. Declining revenues for public employers and declining memberships for unions also impacts negotiations.

Private sector union membership has drastically declined. According to Steve Greenhouse of the New York Times, the peak unionization rate was 35 percent during the mid-1950’s, after a surge in unionization during the ‘Great Depression’ and after World War II. The drop in union membership has stemmed partly from large-scale layoffs in several sectors with many union members, most notably construction, manufacturing, teaching, and local government. Last year, union membership in the US fell to a 70-year low. Greenhouse noted that the number of American Workers in unions declined sharply last year according to the Bureau of Labor Statistics, with the percentage slipping to 11.9 percent, the lowest rate in more than 70 years.

In contrast, since 1979 public sector union membership has been steady at around 37 percent. In 2009, for the first time in American history more than half of the union’s membership was comprised of government employees. Last year government workers in unions fell to 36.2 percent, down from 37.4 percent the previous year (Greenhouse). Layoffs and/or the elimination of public sector jobs trigger a decrease in union membership and cut into the union’s economic resources.

Alameda County has not experienced major layoffs during the economic crisis because of efforts of collaborative problem solving and excellent fiscal management on the part of the County Administrator and Board of Supervisors. This is the result of negotiating a freeze on cost of living increases (COLA). In addition, County agencies are encouraged to leave vacant positions unfilled or to give up positions to reduce layoffs. These strategies help with managing the County’s budget but also mean work loads must be distributed to a smaller work force. However impactful the economy may be, it is not the only variable. Politics plays a significant role in collective bargaining.
Political Challenges

Unions are involved in politics for three reasons, according to the UA Local 170, 1) to protect themselves and the gains they have won through collective bargaining, 2) to promote justice and equal economic opportunity for all, and 3) to elect public office holders who believe in both. The unions have more to look at than just declining economics; they have to consider how agreements they make during negotiations affect the political campaigns in which they are involved. For example, what unions win in negotiations in California can have an impact across the country. Unions have become politically connected, and more of their resources are devoted to political campaigns to further their interests.

People power can be even more important than money, especially when contributions are smaller. Since 1995 unions have taken major steps in revitalizing their political program. They changed their focus from banking candidates to one that mobilizes members into political action to raise awareness on the issues important to their members. Unions have an army of members that can volunteer for their chosen politician by walking precincts and taking their political message directly to the citizens. “Unions have used their economic resources to support candidates for elective office who, when those candidates are successful, are the individuals with whom the union then bargains,” said NPELRA general counsel James Baird (Cuda 8). But the union’s political influence may be waning as a result of the economic crisis and taxpayers’ attitudes towards funding above-market wages and defined pension plans for public employees with tax dollars.

When Indiana Governor Mitch Daniels took office in 2005 he set out to eliminate collective bargaining for state employees. His executive order has had a monumental impact and includes freezing state employees’ wages, weakening seniority preferences and giving greater freedom to the state to consolidate operations or outsource them to private companies. Daniel’s 2005 success encouraged Governor Scott Walker of Wisconsin to put an initiative on the ballot to end collective bargaining for public employees. Proposition B was passed to end public employee collective bargaining. This was a huge blow for public employees and unions because it removed a fundamental element that drives the union’s existence. It also raises the specter of further changes in the future if other jurisdictions follow Governor Walker’s example. Public employees and unions initiated a recall of the Governor which failed on June 5, 2012.

Public employers must also consider politics as they battle with shrinking budgets. Soaring pension costs due to falling investment revenue has lead public employers to seek concessions in retiree benefits. During good times, government agreed to pension improvements that lowered the retirement age, shortened accrual periods and covered late-developing disabilities. As returns on pension fund investments sank, employers’ direct spending on retiree benefits expanded. “This will exacerbate budget problems and make for difficult contract
negotiations,” Milinski said (Cuda, 7). In recent years taxpayers have voiced their dissatisfaction over the amount of taxpayer money local governments spend on public employees’ salaries, benefits and defined pension plans thus leaving less for services. For example, in the City of San Diego, payments to the city’s retirement fund soared from $43 million in 1999 to $231.2 million in 2012, equal to 20 percent of the city’s general fund budget which pays for day to day operations. This has driven some local politicians to place unpopular solutions to their economic trouble on the ballot.

On June 5, 2012, Mayor Chuck Reed of San Jose won his Measure B initiative for public employees’ pension reform. In an NBC news report (June 10, 2012) RJ Middleton, reported that the measure will allow current employees to keep pension credits already earned but they must pay up to 16 percent more of their salary to continue that benefit or choose a more modest and affordable plan for their remaining years on the job. Retirement benefits will be limited for future hires by requiring them to pay half the cost of a pension. Current retirees’ will have their yearly pension raises frozen if the city declares a fiscal crisis. Measure B also requires voter approval of future pension increases and a change in disability retirement with the aim of limiting it to those whose injuries prevent them from working. Because of the passage of these initiatives, there is a sense of change in what the future role of unions may be without collective bargaining and how public employers will operate after they assume full responsibility of providing fair wages, benefits, and just working conditions for their employees.

Until collective bargaining is abolished in the public sector, labor and management will continue to work together. Although the economic crisis and current political changes make negotiations more challenging, cooperation and understanding by labor and management are even more essential. Historically the relationship between labor and management has been adversarial. Negotiations were approached with stubbornness and inflexibility on both sides. “Probably the biggest problem during hard times is the inability of the parties to accept change,” Milinski said (Cuda 7). During tough economic or political times, the key to productive negotiations will be approaching them with an open mind, compassion, and be willing to make sacrifices. To achieve this, labor and management must develop a cooperative relationship where both embrace current economic and political changes and work together in an atmosphere of trust and respect.

With collective bargaining on the chopping block, unions may have to reinvent their organization and analyze their value absent bargaining for higher wages and better working conditions, instead becoming a creative business partner in representing employees. “Over the last several decades, unions have increasingly fallen out of favor with the American public,” wrote Chris Cillizza, of The Washington Post. A Gallop poll showed that 72 percent of Americans approved of unions in 1936. In 2007, 60 percent did. That rating has now...
dropped below 50 percent. Although many Americans supported Measure B and Proposition B, they also believe that unions have value and can improve the working conditions of their members but this may have to be accomplished without collective bargaining.

Public sector employees may find that in the future working in the public sector service will be more like working in the private sector where there are no guarantees. They may have to fund their pension plans through a 401K and pay a greater portion of health care benefits. Public employers will find themselves on the same playing field with private sector employers as they try to attract and retain the same skilled workers. Since public sector employers are non profit; they may be unable to compete with the private sector in acquiring skilled workers.

Conclusion

The landmark initiatives, Measure B and Proposition B will have a life changing impact upon public employees and unions across the country and may trigger reform in other states. Although unions will likely fight these measures with lawsuits, it will be an arduous process. The reduction in union members and dues revenue leaves unions with fewer resources to fight political battles. The economic impact on public employers will leave them with less to bargain with. One thing seems certain; the long and often tumultuous history of public sector labor relations is still evolving as economic and societal dynamics evolve. What will be in place twenty years from now may bear little resemblance to what we have today and will, of course, impact both sides of the negotiating table.

Rhonda Newman  
Disability Program Specialist  
Alameda County Human Resource Services  
1401 Lakeside Dr., Suite 200  
Oakland, CA 94612

Work Cited


Greenhouse, Steve, Union Membership in U.S. Fell to a 70-Year Low Last Year. The New York Times, January 21, 2011
