

HR® THE PUBLIC SECTOR

The season begins

by Jon Holtzman

Bargaining season in the public sector is here again, and this year promises to be very challenging. After years of concession bargaining, employee expectations are rising with the economy. Unfortunately, the money available to grant wage increases or, in some cases, even to mitigate concessions just isn't there. Is someone hiding it? Certainly that's what a lot of union folks are going to claim. But the truth is most local governments remain in a very fragile condition economically, with services reduced by up to 35% and few reserves left to raid. What happened?

First, of course, local government revenues generally haven't rebounded nearly as quickly as the stock market. In many cases, that's because property-related taxes are the largest source of general fund revenue, and housing prices are generally nowhere near where they were prerecession. And because of Proposition 13, once homes are sold at a low price, they are revalued based on that price and the assessed value can rise by only two percent per year.

Second, and more critically, even though many public employees experienced a net decrease in wages since the 2008 crash, pension rates accelerated wildly because of pension fund losses. While the funds are now gaining market value, it would take many years of 14% returns to catch up. And while the various asset "smoothing" programs devised by the California Public Employees' Retirement System (CalPERS) and others reduced the rate of increase, the "hangover" from the smoothing programs is that actuarially determined asset values won't increase rapidly. On top of that, because of new Governmental Accounting Standards Board regulations, existing smoothing programs are likely to be curtailed, leading to a further increase in rates. Some predict that rates could rise by as much as 10% of compensation over the next five years.

Increases in employee and retiree medical costs are also a big problem. Some plans are facing 20% increases this year. Many jurisdictions haven't even begun to prefund retiree medical benefits, which are consuming ever-increasing portions of operating budgets. So while personnel expenses have increased in the public sector, employees don't feel that way because compensation increases haven't included base salary.

The thorniest problem of all, however, is the "services deficit." Over the last few years, many government agencies—especially cities—have cut and cut and cut. So at the same time employee expectations

are increasing, the public's demand for restoration of key services is as well. This is especially true with respect to the need for more police officers in high-crime cities. While the unions of course have considerable political sway, irate residents are ignored at the peril of any democratically elected official. That's especially true because many residents don't have public pensions and aren't too happy about the rising cost of government employees. The public wants restoration of services in much the same way employees want restoration of wages. Unfortunately, these "wants" are fighting for the same dollars.

The problem is further exacerbated by the fact that so many public agencies, thinking the recession would abate sooner than it did, asked for and got "temporary" concessions—i.e., furloughs and other temporary savings. Now many public agencies need to look for more "structural" changes to balance their budgets. These include increasing employee pension and medical contributions, reducing excessive leave accumulations and cash-outs, eliminating outdated "premium" pays and differentials, and reconsidering comparability universes that in many cases fail to recognize the financial resources of the community. Discussing issues such as these is hard—especially after years of frozen or reduced wages. And that's why I predict this will be a challenging bargaining season.

Speaking with my "management hat" on, there also is some reason to hope. In the last five to 10 years, public agencies have become a great deal more sophisticated in their understanding of benefits and compensation issues. "Structural change" is the focus throughout the public sector. And the public is watching as it never has before.

The choices for local governments are difficult. To what extent can a local government improve service levels, restore reserves, and improve worker compensation all at once? If not all at once, which comes first?

As lawyers and HR professionals, it's usually not our job to make those choices. But when it comes to labor costs, our job is certainly to provide greater education on the choices to be made and greater transparency around labor costs. Many outsiders say labor contracts are like Greek to them. We need to be better translators.



The author can be reached at Renne Sloan Holtzman Sakai LLP in San Francisco, jholtzman@publiclawgroup.com. ❖