

COLLECTIVE BARGAINING FOR COUNTIES



PUBLIC SECTOR BARGAINING IS DIFFERENT, ESPECIALLY IN ILLINOIS

- Nationally, in private sector, 7% of employees unionized; in Illinois, the number is 17%
- Among government workers nationally, 37% of state and local workers are unionized
- In Illinois, more than 50% of state and local workers are unionized, including more than 80% of state employees
- In some jurisdictions, the only non-union workers are department heads

ILLINOIS IS A BIG TARGET FOR PUBLIC EMPLOYEE UNIONS

- Illinois has about 7,000 units of local government, including counties – most of any state in the U.S.
- That's about 2,000 units of government more than Pennsylvania, which is in second place
- A number of private sector unions, including the Teamsters and Operating Engineers, have public sector divisions that target Illinois jurisdictions for organizing activities

COUNTIES FACE UNIQUE PROBLEMS IN COLLECTIVE BARGAINING

- Many municipalities are home rule; only one county in Illinois – Cook – is home rule
 - Non-home rule status limits bargaining options
- Most public jurisdictions are single employers for collective bargaining purposes
 - Municipalities
 - Park districts
 - School districts
- Counties encompass multiple units of local government
 - Sheriff's Office
 - Coroner's Office
 - Court personnel

COUNTIES AND COMPONENT UNITS AS JOINT EMPLOYERS

- Component units of local government are responsible for administration of their units
- But County Boards are responsible for approving budgets and making necessary appropriations
- So who is the employer for bargaining purposes?
 - Both the County and the component unit are designated as employers
 - In labor relations parlance, they are joint employers

WHAT DOES THIS MEAN, AS A PRACTICAL MATTER?

- Instead of one set of negotiations per contract, counties sometimes have two
- Before a county can negotiate with the union, it must negotiate with its component unit of local government to decide:
 - The division of responsibility between county and component unit
 - Who will represent the joint employers at the bargaining table
 - The procedure that will be followed in devising and approving contract proposals in union negotiations

ECONOMIC ITEMS ARE A SPECIAL CHALLENGE

- Assume County is about to start negotiations with union (let's call it FOP) for Sheriff's deputies
- Sheriff is elected official with right to run his department, and let 's assume he has strong opinions as to how he wants this done
- Let's also assume that his strong opinions include not only wages but wage distributions within his department

THE BATTLE FOR SUPREMACY



BETWEEN THE COUNTY AND THE COMPONENT UNIT

- Let's assume that there has been a historic relationship between Sheriff's deputies and County corrections officers
- Let's further assume Sheriff wants to change that. Pointing to other counties, he wants deputies to make relatively more
- County Board knows that corrections officers unit will want to maintain relationship, and that if relationship is disturbed, it could lead to leapfrog or whipsaw bargaining, with increased total costs, so
- County Board wants to keep status quo to keep wage costs down

THE BOTTOM LINE(S)

- Sheriff wants County Board to confine itself to approving or disapproving final deal
- County wants to be involved in actual negotiations with FOP, with final say as to economic items
- County wants Employer bargaining representatives to interface with County Board during negotiations; Sheriff wants negotiators to report to and take direction from him

THE COUNTY'S DILEMMA

- The County realizes that the Sheriff has the legal and practical right to run his department
- But it cannot afford to take a hands-off approach in bargaining
- County cannot be placed in position of just approving or disapproving final deal
 - County Board may feel it cannot approve
 - But failure to approve may be unfair labor practice

SO WHAT TO DO?

- County and Sheriff need to work out relative roles and responsibilities *before* sitting down to negotiate collective bargaining agreement with FOP
- Both County and Sheriff need to be represented on Employer's bargaining team
- Negotiators have joint accountability to both County and Sheriff
- But ultimate financial say rests with County Board, just as administrative say rests with Sheriff

IF YOU CAN'T WORK IT OUT, WHO PREVAILS?

- Legally, not clear
- Practically, if it can't be worked out, everybody loses
 - County Board may have to take a step back in order to preserve the peace
 - But it cannot abdicate its role altogether and Sheriff must accord County Board its proper place in the joint employer relationship

THE BARGAINING TABLE



THE SECOND PHASE OF NEGOTIATIONS

-- BARGAINING WITH UNIONS

- Fortunately, not all union negotiations start with component unit negotiations
- Sometimes employees, such as public works employees, are County employees
- For union negotiations, whether with County employees or after resolution of roles with joint employer, certain fundamental principles apply

COLLECTIVE BARGAINING IS AN ART, NOT A SCIENCE

- Like all art, skill starts with technique
- Technique requires:
 - Knowledge of the process
 - Knowledge of the conventions utilized
 - Realistic goals
 - Goal-oriented behavior
 - Mechanisms for accomplishing goals
 - Patience
 - Emotional control
 - Creativity
 - Willingness to work
 - Experience

AS WITH ANY SUCCESSFUL ARTIST, YOU MUST HAVE ARTISTIC CONCEPT – THE PROPER MINDSET

- You must accept the reality of collective bargaining – it is the law.
- Collective bargaining, if done right, can:
 - Be beneficial to the employer, by objectifying decision-making
 - Create a better employment relationship by helping employees to feel happier and more efficacious
- Anger and resentment at having to deal with unions are self-defeating, leading to:
 - Serious mistakes at the bargaining table
 - Unclear or unintentionally restrictive language in the union contract
 - Difficult employer-employee relationships

THE EMPLOYER'S OBJECTIVE IN BARGAINING IS TO ADVANCE ITS INTERESTS, NOT TO THWART UNION OBJECTIVES

- Collective bargaining is a non-zero sum game
- Employer gains do not necessarily have to be balanced by Union losses at the bargaining table
- Employer strives to maximize its gains; if union gains in the process, that can actually be a benefit

WHAT ARE EMPLOYER OBJECTIVES?

- Clear, understandable union contract
- One that preserves basic management rights
- One that does not constrain operations unduly with restrictive language
- One that will provide competitive wages and benefits, so that Employer can attract and retain competent employees
- One that will lend itself to renegotiation when the time comes without having to re-invent the wheel
- For public safety employees, avoid interest arbitration unless a vital interest is at stake

TO ACHIEVE OBJECTIVES

- Formulate goals and objectives before ever meeting with union
- Realistically assess goals
 - What is vital
 - What is realistically attainable
 - What is desirable but not vital
 - What is pie in the sky and probably will be dropped or traded off
- Anticipate union demands and possible counters

YOUR BARGAINING TEAM



ASSEMBLING THE BARGAINING TEAM

- Assuming you have worked out your differences with component units, assemble the bargaining team
 - Chief negotiator
 - Representatives of functional areas, with knowledge of workplace, conventions, practices
 - Human resources representative
 - Finance representative (not always necessarily at the table)
 - Ultimate decision-makers (*i.e.*, County Board members) are not usually on the team

THE CHIEF NEGOTIATOR

- Experience needed: have it or get it
- Otherwise, you are overmatched
 - You can expect that union will be represented by experienced negotiator
 - Without comparable experience, you will:
 - Make mistakes
 - Get nowhere in bargaining
 - Agree to a union contract that is ambiguous, unworkable, and/or unduly restrictive
 - End up giving away the store

OTHER TEAM MEMBERS

- Other members of the team are resource people
- They are also very important. They supply:
 - Facts
 - Workplace experience and perspective
 - Counter-balance to union arguments concerning policies, practices, and working conditions
- They should not be reticent; county management and chief negotiator must encourage appropriate and necessary input

CLARIFY REPORTING RELATIONSHIPS

- Must be higher level administrator – county executive or administrator, for example – to whom bargaining team reports and from whom guidance is received
- Must be clear understanding as to what bargaining team can tentatively agree to at bargaining table and what will require further guidance
- With economic terms, especially wages, the “Mother, May I” rule governs. The bargaining team should never agree to economic terms that have not been approved in advance by the appropriate authority – in the case of overall wage increases, probably by the County Board

PREPARING FOR BARGAINING

- Review Union Contract
- Determine Problem Areas
- Determine Priorities in Attempting to Correct Problems
- Try to Clean Up Language Wherever Possible
 - Simple, understandable language
 - Conventional terms wherever possible – don't create new terms to describe conventional things
 - Use the same term to mean the same thing
 - Eliminate outdated and incorrect references

IMPORTANCE OF A CLEAN CONTRACT

- Cannot be overestimated
- Ambiguous, poorly written contracts contain hidden costs as real as wage and benefit costs
- Bad contracts produce:
 - Restrictions on right to manage
 - Grievances and disputes over interpretation
 - Scheduling headaches
 - Overtime costs
 - Delays in providing service to public
 - Misinterpretations of intent when ambiguous language is interpreted by arbitrators

INTERFACE WITH PRINCIPALS

- Bargaining team needs regular procedure for communicating with higher level executives and with legislative body
- Nothing is proposed or offered without authority, and procedure for obtaining authority must be in place and used
- Initially, reports to legislative body can be by higher level executive
- Eventually, however, chief negotiator should appear before and brief County Board

THE BARGAINING PROCESS

- Ground rules
- Union goes first
- Try to negotiate non-economics first
- Maintain control over contract language drafts
- Comprehensive responses and counter-proposals
- Be flexible
- Listen with open mind
- Don't be fooled into codifying practice if result will impose rigidity on way things are done
- Make sure you think about how language will work in practice before you propose it
- Don't go to interest arbitration over unimportant or unwinnable issues

COLLECTIVE BARGAINING AND THE ELECTED OFFICIAL



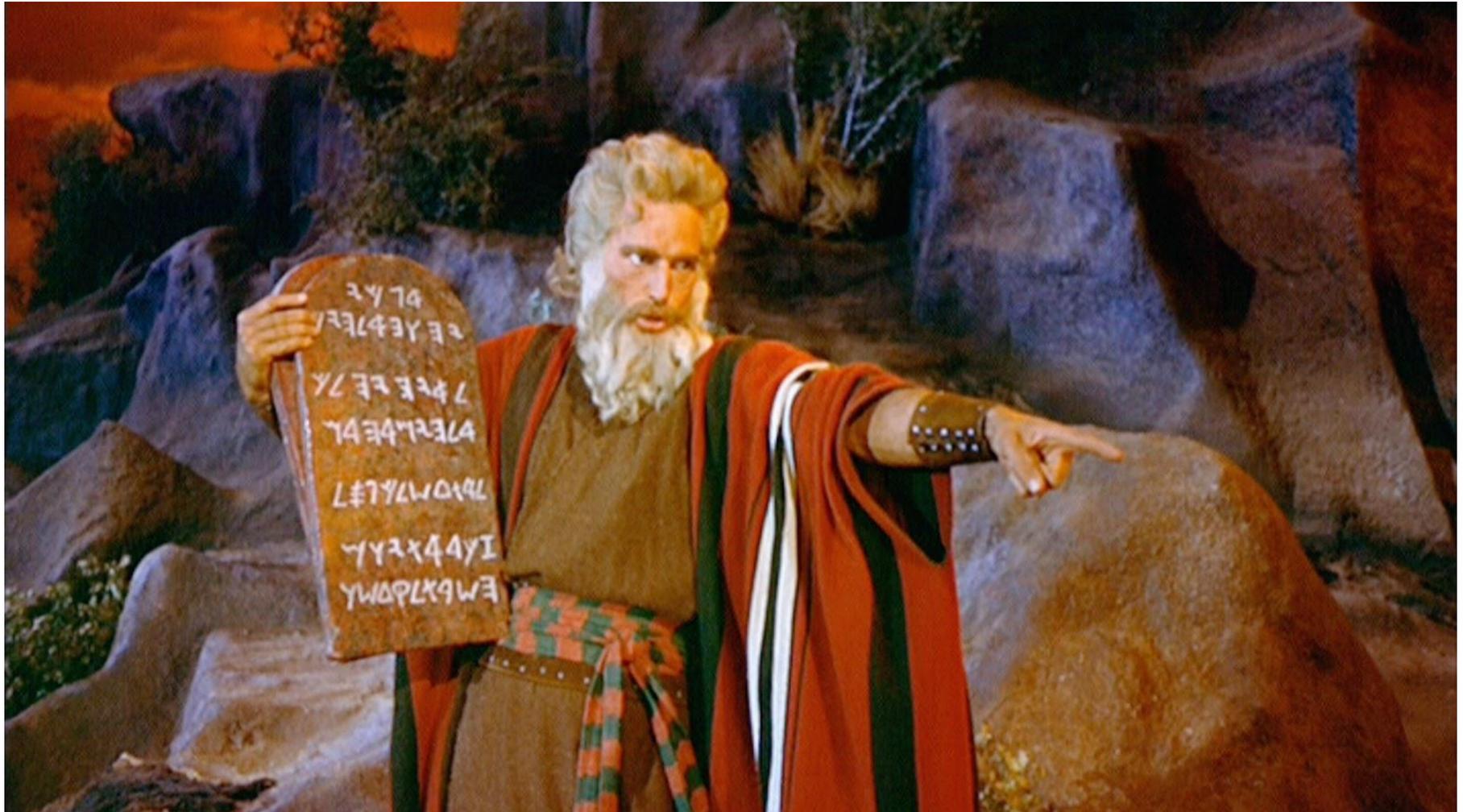
THE ROLE OF THE ELECTED OFFICIAL

- Ultimate Decision-Maker – Public Responsibility
- Must wear Employer hat, regardless of personal beliefs or relationships
- Must maintain confidentiality – “What happens in Vegas stays in Vegas”
- Don’t encourage direct access on collective bargaining matters by union representatives or supporters
- Must act and vote in the best interests of the County
- Be William Ford, not Jerry Jones

YOUR GOALS

- New contract on livable terms
- Contract that preserves County's management rights and serves County's main interests
- Contract that provides affordable wages and benefits that enable county to attract and retain competent workers
- Contract negotiated in timely, cost-effective manner, including avoidance of excessive legal fees
- Contract that avoids interest arbitration

TEN RULES TO MEET YOUR GOALS



TEN RULES – THE FIRST FIVE

- Beware of the Flying Monkeys
- Remember to Say “Mother, May I”
- There Ain’t No Such Thing as a Free Lunch
- They’ve Got to Eat the Peas and Carrots before You Show Them Dessert
- Keeping the Other Side from Scoring Isn’t Important

TEN RULES – THE SECOND FIVE

- There's Always Some Part of "No" They Don't Understand
- There Are Many Licks before the Crunch
- Never Play Strip Poker with an Eskimo
- Try to Get the Answer before You Ask the Question
- "Assume" is a Three-Syllable Word

THE END AND A NEW BEGINNING

