

## PENDING OR RECENT CHANGES IN STATE PUBLIC SECTOR BARGAINING LAWS

### Florida

No proposals yet to generally change public employee collective bargaining. However, SB 6, which passed on a party-line vote in 2010 only to be vetoed by former Governor Christ, appears likely to pass and be signed by new Governor Scott. SB 6 would require that school districts primarily pay, evaluate, and retain teachers based on performance measures largely linked to standardized test results by students, and would exclude salary as a topic for teacher collective bargaining.

### Iowa

No pending legislation. Democrats have 2-member majority in State Senate; Republicans have majority in State Senate. Republican legislators have announced plans to reform collective bargaining laws if 2012 elections produce a different alignment.

### Kansas

HB 2130 would prohibit the use for "political activities" of dues collected through dues deduction, even if the member consents to such use.

### Michigan

HB 4205 would repeal binding arbitration for police and firefighters. Various other bills would either limit binding arbitration or would grant emergency financial managers extraordinary powers. SB 158, for example, would require a new collective bargaining agreement between a public employer and public employees to include a provision allowing an emergency manager to reject, modify, or terminate the agreement.

### Nevada

One pending bill prohibits giving seniority greater impact than performance in making layoff decisions. Two planned bills would allow governments to consider reopening labor contracts in situations deemed fiscal emergencies, and would identify at least three points when contract offers from employers and unions must be publicized.

### New Jersey

On December 10, 2010, Governor Christie signed legislation capping interest arbitration awards at 2%. The legislation also

- Requires PERC to establish rules requiring that arbitrators have "relevant knowledge of local government operations and budgeting."

- Interest arbitrators must be guided by and subject to the objectives and principles set forth in the "Code of Professional Responsibility for Arbitrators of Labor-Management Disputers" of the National Academy of Arbitrators, the American Arbitration Association, and the Federal Mediation and Conciliation Service.
- Interest arbitrators shall be required to complete annual training offered by the State Ethics Commission. Interest arbitrators who submit late awards are fined \$1,000 for each day the award is late.
- Each arbitrator's decision shall be accompanied by a written report explaining how each of the statutory criteria played into the arbitrator's determination of the final award. The report shall certify that the arbitrator took the statutory limitations imposed on the local levy cap into account in making the award.
- All parties to arbitration shall present, at the formal hearing before the issuance of the award, written estimates of the financial impact of their last offer on the taxpayers of the local unit to the arbitrator with the submission of their last offer.
- The fee schedule shall provide that the cost of services provided by the arbitrator shall not exceed \$1,000 per day. The total cost of services of an arbitrator shall not exceed \$7,500. If the parties cancel an arbitration proceeding without good cause, the arbitrator may impose a fee of not more than \$500. The parties shall share equally in paying that fee if the request to cancel or adjourn is a joint request. Otherwise, the party causing such cancellation shall be responsible for payment of the entire fee.

The legislation sunsets after 39 months, but Governor Christie has stated he intends to seek its renewal, and possibly seek additional restrictions on binding arbitration and collective bargaining in general.

### Ohio

SB 5 would produce the following results:

- The elimination of collective bargaining for state workers, including employees of institutes of higher education;
- The removal of required binding arbitration as a means to resolve bargaining impasses for deadlocked safety forces, instead extending the prior contract for one year when impasse occurs;
- The mandate that mediators must consider wages of non-bargaining unit employees of the employer and must not consider any possible future tax increases as part of an employer's ability to pay;
- The permissible use of permanent replacement workers during a strike;

- The complete removal of health insurance from bargaining. Employers will be allowed to choose insurance policies and employees will be required to cover at least 20% of the costs of insurance;
- The elimination of the rule that once a subject is included in a contract, that subject then becomes a mandatory subject of future bargaining;
- The inclusion of a definition for "impasse," that states "impasse" is a lack of agreement after 90 days. After 90 days, each side must then make public their respective last, best offer;
- The prohibition of public employers from picking up extra employee pension contributions;
- The exclusion of automatic pay increases for experience and education from state law;
- The authorization for employers to consider factors other than longevity when making layoff decisions;
- The requirement that a public employer publish on its website any changes in the contract that impact compensation, including wages, length of service payments, and insurance coverage;
- The mandate that the State Employment Relations Board publish the parties' offers on their website before and after fact-finding; and
- The authorization for schools or local governments to terminate or modify a collective bargaining agreement when faced with a fiscal emergency.

### Oklahoma

HB 1576, which has passed a House committee, would make advisory what is currently binding arbitration.

### Washington

HB 1377 would impact the interest arbitration process in the following ways:

- Neutral arbitrators would have to demonstrate: current membership in the National Academy of Arbitrators, American Arbitration Association, or Federal Mediation and Conciliation Services; at least eight hours of training in public sector fiscal and budgetary matters; and be geographically located in the northwest region of the United States.
- PERC would be required to develop or certify qualifying training programs in public sector fiscal and budgetary matters in consultation with labor and management representatives.

- The arbitration panel would be required to give first priority to the employer's financial ability to pay,
- The arbitration panel must give due consideration and weight to the unit of government's other services and priorities, and must not consider an operating reserve against future contingencies as available toward a settlement.
- For law enforcement personnel (as is now the case with firefighters), comparable jurisdictions must be located in Washington unless an inadequate number of comparable employers exist within Washington, and then West Coast jurisdictions can be considered.
- Comparable jurisdictions must be determined by factors including population size, geographic location, financial conditions, population demographics, workforce size, assessed valuation, and labor market characteristics. For firefighters and similar uniformed personnel, like public fire departments must be determined by factors including population size, geographic location, financial conditions, population demographics, workforce size, assessed valuation, and labor market characteristics.