Published in the

CRAIN'S NEW YORK BUSINESS

Finding a better way on labor bargaining

By Carol Kellermann

MAY 19, 2013

Taxpayers are at a disadvantage in collective bargaining with police and firefighter unions in New York state because of the way binding arbitration is done. The culprits are provisions of a statute, known as the Taylor Law, that expire July 1. Gov. Andrew Cuomo's recent statement that he will not allow the Legislature to simply extend these provisions is welcome, as are his proposals to encourage local government restructuring and establish an alternative panel to conduct arbitrations. Revising the binding arbitration law to strengthen localities' position is necessary to incentivize union leaders to negotiate.

Public unions have long been prohibited from striking (labor's most powerful tool), so police and firefighters, considered essential-service providers, sought binding arbitration as a way to gain some leverage in bargaining with local governments. It has also been extended to other uniformed personnel, including transit workers.

Despite the intent that it be a last resort, arbitration has come to be frequently relied upon and has hindered timely, good-faith collective bargaining. Union leaders can reject reasonable offers from elected officials and then ask a tripartite arbitration panel to make an award knowing the previous offers from management may serve as a starting point for a "compromise."

Arbitrators must base their awards on several criteria, but insufficient recognition of municipalities' fiscal condition has resulted in generous awards that burden already stressed communities.

For example, just prior to the recession, an arbitration panel awarded New York City police officers wage increases of 4.5% and 5% for the 2004-2006 contract. The award exceeded wage increases the city had negotiated with other uniformed-service unions. To maintain parity, the city had to reopen those contracts to provide the higher increases to those workers as well.

Mr. Cuomo proposed changing binding-arbitration provisions in the state budget, but legislative leaders balked. His proposal would have limited awards to 2% annual raises in localities that meet a definition of "fiscally distressed." This approach was too narrow. A better set of rules would give arbitrators more guidance in making determinations and assure that the process, once invoked, moves expeditiously.

The changes should include time limits and deadlines that avoid the uncertainties and risks arising from delayed, retroactive wage awards. New, more specific decision criteria should place greater emphasis on the fiscal condition of local governments.

Published in the

CRAIN'S NEW YORK BUSINESS

"Ability to pay" should be defined as the capacity of a locality to pay all costs of the imposed contract from recurring resources (including savings from productivity gains) without increasing taxes, making service cuts or employing fiscal gimmicks.

Local governments are under extraordinary pressure from the cost of their employees' compensation. The taxpayers deserve a level playing field, and they don't have one now.

Carol Kellermann is president of the Citizens Budget Commission.