7 things New Yorkers should know about MUNICIPAL LABOR CONTRACTS IN NEW YORK CITY

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Two Penn Plaza, Fifth Floor
New York, NY 10121

540 Broadway, Fifth Floor
Albany, NY 12207

T: 212-279-2605
F: 212-868-4745

www.cbcny.org
www.twitter.com/cbcny

The Citizens Budget Commission is a nonprofit, nonpartisan civic organization devoted to influencing constructive change in the finances and services of New York State and City governments.

This report was researched and written by Maria Doulis, Director of New York City Studies.

Introduction

Municipal government is the largest employer in New York City, employing almost 300,000 people to provide the services on which businesses, residents and visitors rely. This is an expensive enterprise: personnel costs, including salaries, health insurance and pensions, make up more than half of the City of New York's $72 billion budget.

The overwhelming majority of the public workforce is unionized, and the unions negotiate multi-year contracts with the city that provide salary increases and specify terms of employment. As of July 2012, all labor contracts have expired; some expired as long ago as 2009.

It has not been uncommon in the city's history for municipal labor contracts to be expired for longer than a year; there is little pressure to reach a new agreement as soon as the old one expires. Under state law, the terms and conditions of an expired contract continue to apply until a new contract is agreed upon: work rules remain in effect and any bonuses or payments based on seniority or performance continue to be provided. In addition, when new agreements are reached, newly negotiated raises are provided retroactive to the effective date in the contract.

This time, the stakes for settling the contracts are exceptionally high. Mayor Bloomberg proposed a three-year wage freeze in labor negotiations; while no union accepted these terms, the reserves set aside to pay for modest raises were eliminated from the city budget. This means the City could be forced to pay for any raises for past years from its current operating budget, in one lump-sum.

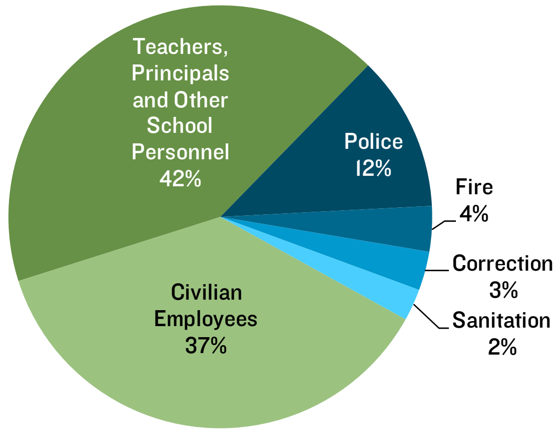
It is unlikely that any of the contracts will be renegotiated during the remaining months of Mayor Bloomberg's term in office. The next mayor will bear the responsibility for resolving them– and taxpayers will bear the costs, which could reach billions of dollars.

Here are seven things New Yorkers should know about New York City collective bargaining and labor relations.

1 The New York City municipal workforce is unionized in more than 100 collective bargaining units.

Almost the entire municipal workforce is unionized.[1] The single largest union is the United Federation of Teachers (UFT), which represents approximately 120,000 teachers, paraprofessionals and other school-based personnel, excluding principals— fully 40 percent of the city's workforce. Principals and other administrators are 2 percent of the workforce and are represented by the Council of Supervisors and Administrators.

Figure 1: Composition of Workforce, City of New York, 2013



Source: New York City Independent Budget Office, *Analysis of the Mayor's Preliminary Budget for 2014,* March 2013. Professional Staff Congress membership included with civilian employees.

Civilian employees, the vast majority of whom are represented by collective bargaining units under the umbrella of District Council 37, make up the next largest group with 37 percent of the workforce, or about 110,000 employees.

The rest are uniformed employees in the police, corrections, fire and sanitation departments. With more than 35,000 members, the police unions represent the majority of uniformed employees.

2 Collective bargaining focuses on wages; health insurance is usually negotiated with a labor coalition and pensions are decided by the state legislature.

Salaries, wages and work rules are negotiated with individual unions.[2] Employee health insurance– including changes to benefits, employee premiums, deductibles and co-payments– has been negotiated with the Municipal Labor Committee (MLC), a coalition of representatives of municipal employee unions. The last agreement between the City and MLC on health benefits was in 2009, and its terms continue until a new agreement is negotiated. Health insurance benefits provided to retirees are codified in local law, but changes to them typically have been made with the consent of union leadership.

[1] There are approximately 11,000 non-unionized personnel in managerial and professional titles.

[2] There have been occasions when some unions have bargained as a coalition.

Pension benefits are established under State law and can only be changed by the State Legislature. Labor and management are prohibited from negotiating pension changes during collective bargaining, but joint recommendations to the legislature to enhance benefits for employees or retirees have been made and adopted in the past. Changes to reduce benefits can only be enacted for prospective employees.

This fragmented framework impedes the ability to consider compensation as a whole; as a result, contract negotiations with individual unions tend to focus in a limited way on marginal wage and work rule adjustments. A more holistic approach would consider reforms to health insurance, salaries, work rules, productivity and cross-agency collaboration.

3 "Pattern bargaining" is used to simplify contract negotiations.

The City has traditionally employed pattern bargaining to simplify the process of negotiating with so many unions. The first union to reach a settlement establishes "the pattern" of wage increases; each subsequent union is expected to agree to the same raises or to a settlement that offsets higher wage increases than the pattern through productivity savings. There are two separate patterns: one for uniformed officers and one for civilian employees. Wage increases for teachers have deviated from the civilian pattern in some years, and are differentiated in the table below, which shows wage increases awarded since the start of the Bloomberg Administration.

Pattern bargaining preserves parity between the pay scales of ranked officers in the uniformed departments, as well as between departments. It also infuses each round of collective bargaining with order and predictability, and provides assurance to the first union to settle that it will not be "leap-frogged" by subsequent contracts that achieve more favorable terms.

In the past, all union contracts began and ended in the same calendar year, and this period was considered to be a "round" of collective bargaining. In recent years, the end dates of some contracts were extended; as a result, "rounds" of collective bargaining are now denoted less by their ties to the calendar dates and more by the pattern of wage increases that is applied.

Table 1: Wage Increases by Round of Collective Bargaining

	2002-2005 Round			2005-2006 Round	2006-2008 Round		2008-2010 Round	
Civilians	0.0%	3.0%	3.0%	3.15%	2.0%	4.0%	4.0%	4.0%
Teachers	2.0%	3.5%	5.5%	3.25%	2.0%	5.0%	NA	NA
Uniforms	5.0%	5.0%	4.5%	5.0%	4.0%	4.0%	4.0%	4.0%

Note: Civilian unions received a pensionable $1,000 lump sum payment in the 2002-2005 round of bargaining in lieu of a wage increase. Teachers and principals have not settled contracts from the 2008-2010 round of bargaining.

4 The teachers' and principals' unions have not settled their contracts from the 2008-2010 round of collective bargaining.[3]

The last teachers' contract was negotiated in November 2006 and provided raises for teachers of 2 percent in 2007 and 5 percent in 2008. It expired on October 31, 2009. The principals' contract, negotiated in April 2007, expired in March 2010.

Collective bargaining continued with other unions in 2007 and 2008, and they settled for two 4 percent raises for the 2008-2010 round of bargaining.

Funds had been set aside in the labor reserve to provide this pattern wage increase to teachers and principals, as well; but the available funding was reduced to the equivalent of two 2 percent raises to help balance the budget.

Table 2: Contract End Dates for Selected Public Employee Unions, City of New York

Union	Contract End Date
United Federation of Teachers	10/31/2009
District Council 37	3/2/2010
Council of School Supervisors and Admin.	3/5/2010
Patrolmen's Benevolent Association	7/31/2010
United Firefighters Association	7/31/2010
Organization of Staff Analysts	8/24/2010
Teamsters Local 237	9/25/2010
Uniformed Fire Officers Association	3/26/2011
Sergeants Benevolent Association	8/29/2011
United Sanitationmen's Association	9/20/2011
Lieutenants Benevolent Association	10/31/2011
Correction Officers' Benevolent Assoc.	10/31/2011
Captains Endowment Association	3/31/2012
Detectives Endowment Association	3/31/2012
Assistant Deputy/Deputy Wardens Assoc.	6/30/2012
Correction Captains' Association	6/30/2012

As part of the fiscal year 2011 Executive Budget proposal, the Mayor proposed offsetting a loss in state education aid with 4,400 teacher layoffs. After discussions with the City Council, the positions were preserved by substituting city funds for state funds— and these city funds came from tapping the remaining reserves set aside to provide two years' worth of teachers' and principals' raises.

The City and the UFT are at an impasse in negotiations. A state fact-finding panel began hearings on the contract this month. Budgetary reserves do not exist to pay for wage increases.

5 All municipal labor contracts have expired, but salaries continue to rise for some employees.

Teachers and principals are not the only ones working under expired contracts; all municipal labor contracts have expired. Many members of the city workforce, including police officers and firefighters, have not had a base wage increase since 2009.

[3] Some small unions also have not settled for the 2008-2010 round of bargaining.

Under a provision of state law known as the Triborough Amendment, the terms and conditions of an expired contract remain in effect until a new agreement is reached. This means employees continue to receive any additional payments that are tied to performance, scheduling or seniority. For example, most pedagogical and uniformed employees earn "step increases," automatic pay bumps for each year of additional service in the early part of their careers. Employees move along the steps at increased pay even though their contract is expired. When a new contract is negotiated, the pay raises increase the pay rate at each step in the salary schedule.

Negotiations are ongoing for what is considered to be the 2010-2013 round of bargaining.[4]

6 No labor reserve exists to pay for wage increases for the 2010-2013 round of bargaining; failure to agree on a three-year wage freeze will have an enormous impact on the city's budget.

In negotiations with the city's workforce, Mayor Bloomberg proposed a three-year wage freeze in lieu of raises in fiscal years 2010, 2011 and 2012, and eliminated funds set aside in the labor reserve to pay for wage increases during that time period. The proposed wage freeze was part of a larger fiscal management strategy that included tax hikes, cuts to agency programs, renegotiations with contract service providers and advocacy for changes to state-mandated expenses like pensions and Medicaid. The Mayor's proposal is also consistent with contracts negotiated by Governor Cuomo and state employees.

As the city approaches the close of fiscal year 2013 and the end of the Bloomberg mayoralty, no new labor contracts have been negotiated. It is increasingly likely the next mayor will be tasked with resolving the expired contracts, and there are no budgetary reserves set aside to pay for any wage increases through 2013.

NO BUDGETARY RESERVES EXIST TO PAY FOR **ANY RETROACTIVE** WAGE INCREASES.

The potential failure to settle the contracts with prior-year wage freezes poses a large risk to the city's fiscal stability. Each 1 percent raise awarded to the city workforce increases operating costs by approximately $300 million a year; even small salary hikes can increase costs very quickly.

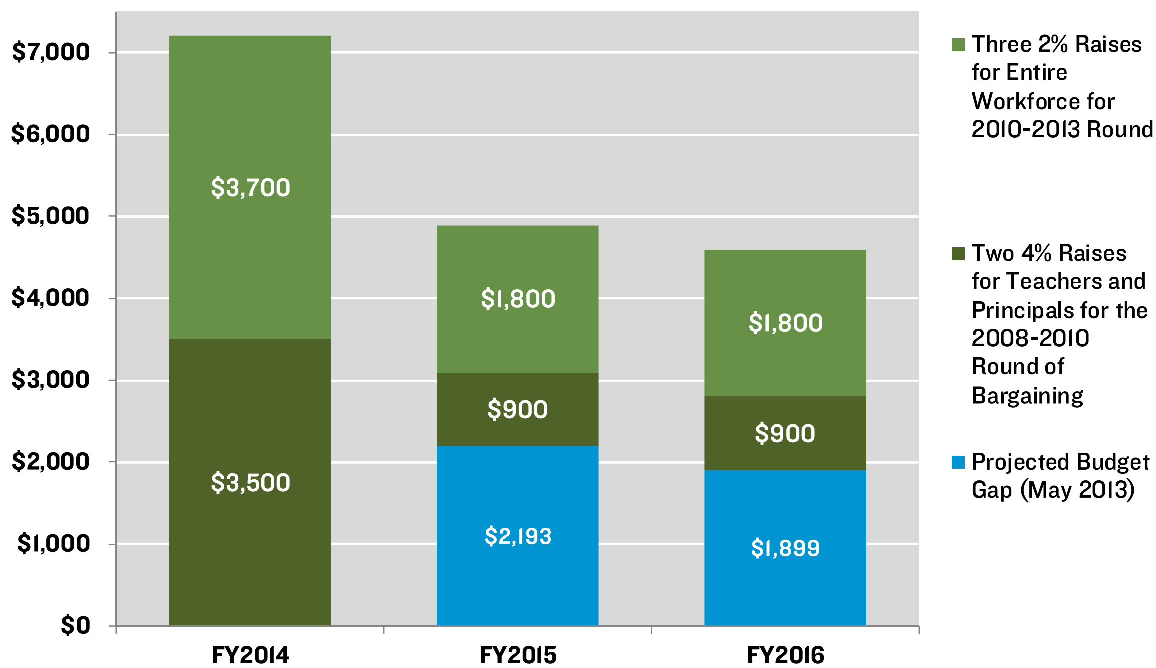
The graph below charts one scenario of possible settlements. First, two 4 percent raises are awarded to teachers and principals according to the pattern set for the 2008-2010 round of collective bargaining. If retroactive pay is awarded, it would cost a whopping $3.5 billion in fiscal year 2014. Recurring operating expenses would grow by about $900 million a year.

Second, 2 percent wage increases are provided to the entire workforce (including teachers and principals) in each year for the 2010-2013 round of collective bargaining. This would cost $3.7 billion in

[4] The City's most recent offer in negotiations is for five years (2010-2015).

fiscal year 2014 and $1.8 billion in ongoing expenses. Settling along these lines would immediately open up a $7 billion budget gap in fiscal year 2014—about 10 percent of the size of the fiscal year 2014 operating budget.

Figure 2: Potential Cost of Labor Settlements to the City of New York



Source: CBC Analysis; New York City Office of Management and Budget.

7 SOME CONTRACT SETTLEMENTS MAY BE OUT OF THE HANDS OF THE MAYOR: POLICE AND FIRE UNIONS MAY GO TO BINDING ARBITRATION BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD.

If contract negotiations reach an impasse with police and fire unions, they are entitled under state law to file for mediation by the Public Employment Relations Board. If the parties cannot agree in mediation, a three-person arbitration panel is selected to conduct evidentiary hearings and make a determination. The panel's award is binding—meaning the City would be required to pay the wage increases specified regardless of how other collective bargaining agreements have been settled.

In the past, the arbitration proceedings for PBA contracts have had a spillover effect on settlements with other uniformed unions. The 2005 arbitration award granting police officers two 5 percent wage increases became the pattern for the rest of the uniformed forces for the 2002-2004 round of collective bargaining. The 2008 arbitration awarded for the 2004-2006 round of collective bargaining provided a wage increase of 4.5 percent in the first year and 5 percent in the second year. These were greater than the wage increases (3 percent and 3.15 percent) that had been previously negotiated by firefighters, correction officers and sanitation workers; as a result, their contracts were reopened and these unions were also given the same wage increases.

Figure 3: Cost of a One Percent Wage Increase

Source: New York City of Manangement and Budget

The figure illustrates how the cost of a one percent raise to members of the largest police union, the Patrolmen's Benevolent Association— $30 million— can easily double in size if applied to all police unions and triple in size if applied to all uniformed personnel.

Conclusion

Expired municipal labor contracts may be the greatest challenge the next mayor will face in his or her first year. There are no resources within the city's budget available to pay for any wage increases for prior years. As contract end dates become increasingly distant, the financial risk of awarding retroactive pay grows substantially: it will upset budget balance and seriously undermine efforts to close out-year budget gaps. New Yorkers should pay attention to contract negotiations—they will bear the cost of the outcome.