



How Massachusetts Can Stop the Public-Sector Virus

By *Thomas A. Kochan* (MIT Sloan School of Management)

America is in the early stages of what could be the largest labor protest of our lifetime. Starting in Wisconsin, the battle over public-sector wages, benefits, and collective bargaining rights is now spreading like a virus to Indiana, Ohio, New Jersey, and God knows where next. So, like exposure to any virus, we have two questions on our mind: Will we get it here in Massachusetts? Is there a treatment that makes us immune and stops it from spreading around the country?

I believe we have within our own experience the potential treatment and immunity. But we must act proactively now. We can build on our own positive experiences in confronting public-sector challenges over the past year and chart a new course for tackling public-sector challenges here, and in doing so lead the nation on a new course for public-sector labor-management relations. The way to do so is to put the modern tools of negotiations, problem solving, and political leadership to work. I will give it a name: Call it the Grand Bargain 2.0.

The proximate trigger of the battles going on around the nation is the fiscal crises state and local governments are experiencing. Out-of-control public-sector wages, health care costs, unions, and collective bargaining are being signaled out as the causes. But

are these the causes or convenient scapegoats and targets?

Let me be clear about the deeper issue at stake in these debates that give them such a viral character. Wisconsin's governor would strip employees of their rights to collective bargaining and make it essentially impossible for any union to represent its members in a stable and responsible fashion. In doing so, he is attacking a fundamental human right, the freedom of association and the right to have an independent voice at work. This is not only unacceptable; I hope we will have the courage to call it un-American. America must stand up for basic human rights at work as we do in all parts of society.

This is a teachable moment, but we have to get the lesson right. We have allowed worker rights to quietly and slowly erode in the private sector for a long time without recognizing its consequences or getting irate about it. Now we see it happening in a bald and sudden form in the public sector. The 70,000 people in the streets of Madison should be a wake-up call. When people's basic rights are attacked they will react. So the virus on our doorstep will come in, if we do not get our house in order.

Our approach has to start by getting the facts right. Public-sector employees are not overpaid relative

This Policy Brief is based on remarks made by Professor Thomas A. Kochan at "Collective Bargains: Rebuilding and Repairing Public Sector Labor Relations in Difficult Times," a Boston 101 event on February 23, 2011. A full video of the event can be found at <http://www.hks.harvard.edu/centers/rappaport/events-and-news/audio-and-video-clips/collective-bargains-rebuilding-and-repairing-public-sector-labor-relations-in-difficult-times>.

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to their private sector counterparts. Rutgers University Professor Jeffrey Keefe has done the analysis both at a national level and within states like Wisconsin, New Jersey, and others.¹ Controlling for education and other standard human-capital variables, he found that nationally, public-sector workers earn 11.5 percent less than their private-sector counterparts in wages and salaries. Taking fringe benefits into account shrinks the difference to 3.7 percent. The same is true in Massachusetts. Jeffrey Thompson and John Schmitt from the University of Massachusetts' Political Economy Research Institute and Center for Economic and Policy Research found public employees' wages are approximately 2.3 percent less than their private-sector counterparts and their total

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compensation is 1.4 percent less than their private-sector equivalently educated workers.² Thus, public-sector workers have lower wages and higher fringe benefits (yes, pensions and health-care benefits are the two standouts). But overall, they are not overpaid compared to the private sector. No easy scapegoat here.

So are the public-sector collective bargaining and/or the arbitration process that governs some public-sector disputes the problems? I have studied these processes intensively, first in Wisconsin and then in New York State and nationally. Here is a quick summary of what we know. First, collective bargaining protects wages of lower paid employees more

than highly paid professionals. In doing so it helps reduce income inequality. This has been known to be an effect since the 1980s research by Harvard colleagues Richard Freeman and James Medoff, and now we see the same effects in the public-sector studies cited above.³

What about arbitration? In a recent nationwide study I found that arbitration settlements basically mirror outcomes negotiated in states without arbitration and those settled voluntarily in collective bargaining. This is not surprising, because most arbitration statutes require arbitrators to use these comparisons along with cost of living, ability to pay, and other objective factors in shaping their awards.⁴

But are collective bargaining and arbitration blameless? No. The incremental bargaining process observed at the local level is too politically constrained, too incremental, and too slow to solve the problems of rising health-care costs and growing pension liabilities facing local and state governments. Despite the need to reign in health care costs, few municipalities, despite heroic efforts in places like Arlington, took up the Governor's proposal to negotiate their way into the state's less expensive insurance program (called the General Insurance Commission or GIC). A stronger shock is needed for the system to change. It needs a Grand Bargain 2.0.

So how to proceed? I think we can learn from two recent experiences we've had in public-sector disputes in Massachusetts. Both examples convince me that if we apply a modern approach to negotiations—evidence-based, transparent, problem solving (we call this "interest-based negotiations") we can address the challenges.

The first example is last summer's highly visible dispute over the Boston firefighters' arbitration award. As we recall, that award offended the public by providing a wage

increase as a reward for mandatory drug and alcohol testing. The public essentially said loud and clear: “Give me a break, you mean we have to pay these guys to come to work clean and sober?” At the same time the Mayor of Boston went on a media campaign arguing the wage increase was way above the norm—19 percent over four years.

The public pressure led the Boston City Council to call for a study of the award. I did the study and came to two conclusions: The basic arbitration award matched the negotiated police settlement for 2006-2010 and amounted to essentially a 14 percent increase for those four years. Second, it was the *quid pro quo* for the drug and alcohol testing that pushed up the

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costs in the future to reach 19 percent. That is, if left standing as called for in the award, the total costs of the package with compounding interest would approximate 19 percent over five, not four, years. So the nub of the problem was the 2.5 percent *quid pro quo* for drug and alcohol testing. If we focused on that specific issue, perhaps the public’s sense of fairness, the city’s need for a fiscally responsible wage settlement, and the firefighters’ legitimate need for an equitable settlement, could be achieved.

As a result of this analysis, I urged the Council to neither accept nor reject the award, but to go back and renegotiate it with the firefighters and the mayor. To the City Council’s credit, it did

just that. A negotiated resolution was reached that added a fifth year to the agreement and reduced the costs of the increase and deferred implementing it into the future.

This was a victory for all and especially for the public. The community held the parties’ feet to the fire, so to speak, until a better outcome was negotiated. The lesson here is we are in a transparent, media-intensive world. Fairness and public acceptability ruled the day.

A second example involves a complex merger of the state’s different transportation agencies. This involved integrating multiple workforces, organizations, and unions from the Mass Turnpike, Tobin Bridge, Registry of Motor Vehicles, Mass. Aeronautics Commission, and Highway Department into a single Massachusetts Department of Transportation (MassDOT).

The 2009 transportation reform law creating the new agency called for Draconian wage cuts (more highly paid Turnpike employees would be placed on the state schedule and receive the considerably lower pay). Implementing the statute as written would have violated basic norms of fairness to these employees, bypassed collective bargaining, and saddled MassDOT management with a divided, angry, and ill-motivated workforce. It would also have triggered a nasty battle among state government and former Turnpike unions over who, if anyone, would represent MassDOT employees. This would hardly have encouraged employees to work together to generate the savings anticipated from integration. The blunt approach of the statute required new approaches to solve the representation and pay equity puzzles created by the legislation.

Thanks to the leadership of Robert Haynes, President of the Massachusetts AFL-CIO, a new union coalition was formed and agreed to bargain as a single entity. MassDOT agreed

to negotiate with the coalition and to preserve prevailing union affiliations and representation rights in return for full freedom to integrate the workforce without regard to traditional jurisdictional boundaries.

Early in the process, Secretary of Transportation Jeffrey Mullan and his team recognized that cutting the wages of employees was never going to work, either to get an agreement or to motivate the workforce. Instead, MassDOT agreed to “red circle” or freeze rather than impose cuts in wages of Turnpike employees, in return for the right to hire new employees on the lower state salary schedule. The complex and costly work rules from the former Turnpike contracts would also give way to more flexible and more efficient ways of managing the new organization and getting the work done.

In the end an agreement was reached that positions the new MassDOT to achieve the efficiencies envisioned in the reform legislation. At the same time, it pays due respect to the rights and equity stakes of incumbent employees. Moreover, the agreement opens a new door in the delivery of public services and public employee compensation by creating an operations’ improvement program in which 10 percent of the workforce savings achieved (not savings in benefits, for example) will go to into an equity fund to help close the wage gaps between employees doing similar work. Aligning employee and employer interests in this way is a breakthrough in public service compensation and management, one that would be good to replicate in other public-sector settings.

The agreement also sets up a number of joint labor-management committees to address the myriad of issues that will come up as the integration process moves forward and provides for a joint process to further rationalize and modernize the job structures

inherited from the state system. In short, it provides the framework, processes, and alignment of interests needed to build a model public transportation system and organization.

What lessons should be taken away from these two cases for other public service reforms? First, determined leadership and political courage are needed to break out of the *status-quo* or incremental pace of change normally achieved through collective bargaining, arbitration, or legislatively mandated or management-driven organizational restructuring. Second, collective bargaining can contribute to reform if it is transparent, data driven, and focused on addressing basic interests and norms of fairness. This is no longer “your father’s labor relations” at work in the back room with deals that sweep problems under the table or that perpetuate work rules that inflate costs with little or no benefit to the

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public. And finally, negotiating agreements like these is only the first step in realizing the benefits of reform. Making reforms really pay off will require on-going leadership from public-sector executives and union leaders, and the engagement of the full workforce.

So, how can we apply these lessons and shape Grand Bargain 2.0 to address the real problems in the public-sector?

Let me suggest a three-step process.

1. Get the facts right about the real costs of public-sector wages and benefits and the future funding liabilities and communicate these findings to the public. These data can be assembled in short order since much of the background research has already been done.
2. Use these findings as inputs into “Grand Bargain 2.0” by bringing together state officials, representatives of all public-sector unions, and neutral facilitators experienced in interest-based negotiations (there is no shortage of such experts here in Massachusetts) and instruct them to negotiate solutions to the problems and to communicate their solutions to the public.
3. Use the lessons learned from this experience to carry out an evidence-based analysis of what else can be done to modernize our state’s public-sector bargaining practices to fit the needs of today’s more transparent and financially strapped environment while remaining true to our values.

If we take these steps, Massachusetts will not only stop the virus at our doorstep, but may just serve as the vaccine that can be applied nationwide to protect the current population and generations to come.

If this approach works for health care and pensions, perhaps it can be applied to education reform and other public services and become the model for how to conduct collective bargaining and structure labor-management relations. Who knows, it might even teach private sector management and labor leaders how to reform their relationships before the 70,000 in the streets of Madison escalate into millions across the country.

Endnotes

¹ See Jeffrey Keefe, “Are Wisconsin Employees Over-Compensated?” *Economic Policy Institute Briefing Paper #290*, February 2011, Online at http://epi.3cdn.net/9e237c56096a8e4904_rkm6b9hn1.pdf or <http://www.employmentpolicy.org/sites/eprn.cloud.ojctech.com/files/wisconsin.pdf> and Jeffrey Keefe, “Debunking the Myth of the Overcompensated Public Employee,” *Economic Policy Institute Briefing Paper #276*, September 2010, Online at http://epi.3cdn.net/8808ae41b085032c0b_8um6bh5ty.pdf <http://www.employmentpolicy.org/sites/eprn.cloud.ojctech.com/files/Debunking%20the%20Myth.pdf>

² See Jeffrey Thompson and John Schmitt, “The Wage Penalty for State and Local Government Employees in New England,” *Political Economy Research Institute and Center for Economic and Policy Research, Working Paper #232*, September 2010, online at http://www.peri.umass.edu/fileadmin/pdf/working_papers/working_papers_201-250/WP233.pdf.

³ See Richard Freeman and James Medoff, *What Do Unions Do?* NY: Basic Books, 1984.

⁴ See Thomas Kochan, David B. Lipsky, Mary Newhart, and Alan Benson, “The Long Haul Effects Of Interest Arbitration: The Case Of New York State’s Taylor Law,” *Industrial & Labor Relations Review*. Vol. 63, No. 4, pp. 565-584.

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