

# Going Into Labor

By keeping employee engagement in mind, union officials and public sector HR leaders can more easily find common ground.

BY DALE PAZDRA

**A**nimosity and being at odds no longer have to be the norm when coming to the table to negotiate public sector union-labor agreements.

By creating an environment that supports greater collaboration and problem-solving, the needs of both labor and management can be better understood. A climate of trust will grow when collaboration includes opportunities to increase employee engagement. Based on the input of three labor-relations experts, there are multiple ways to increase employee engagement and improve the effectiveness of labor relations.



Dale Pazdra



# Relations



Jerry Glass

**D**espite the Bureau of Labor Statistics reporting that 10.7 percent of all wage and salary workers in the U.S. are union members in both the private and public sector, union membership of public sector employees at the federal, state and local levels is well above that at 34.4 percent.

Just in local government, the rate of union membership is 40.1 percent and includes teachers, police officers and firefighters. In contrast, only 6.5 percent of private sector employees belong to unions. That number is significant because average private sector compensation costs average \$34.19 per hour, compared to an average of \$49.23 per hour in state and local government — a 30 percent difference in private to public employment costs.

Come to the bargaining table with the shared goal of finding a solution. It might even help to use private sector tactics.

BY JERRY GLASS



## LABOR RELATIONS THAT ARE BUILT ON TRUST AND OPEN DIALOGUE CREATE LASTING PARTNERSHIPS THAT ARE MORE MEANINGFUL AND FOCUSED ON MUTUAL RESULTS.



Jeff Ling, executive vice president of human resources consultancy Evergreen Solutions LLC, suggests three best practices that sustain a culture of engagement: transparency in communication, allowing employees to partner with you

and asking for assistance to finding solutions to organization problems.

Labor relations that are built on trust and open dialogue create lasting partnerships that are more meaningful and focused on mutual results. Employee engagement flourishes in an environment of transparency where knowledge and organization information is frequently shared. For labor relations to remain strong, communications must be ongoing, transparent and meaningful.

Ling, who has worked in HR consulting for more than 25 years and leads Evergreen's HR consulting practice, has devoted a majority of his career to advising public sector clients in all HR areas including employee engagement.

He said that transparency can only be achieved when leadership is willing to engage in ongoing communication. It is also important to share successes (what the organization is doing right) and failures (how the organization has learned from its mistakes).

Ling added that it is important to openly share the reasons behind changes in key leadership roles and the overall strategic direction. At the municipal level of

So how do public sector unions achieve such important gains when some of these same unions don't have the ability to strike? First, let's take a quick history lesson.

The New York state Legislature was one of the first states to pass labor laws protecting women and children. Labor unions continued to gain strength in the subsequent decades, resulting in the passage of the Railway Labor Act in 1926, allowing railroad employees to unionize, and the 1935 National Labor Relations Act, which guaranteed basic rights of private sector employees to organize into labor unions and encourages collective bargaining — generally defined as the negotiation between an employer and a labor union on issues of wages, hours and working conditions.

Notably, the NLRA did not extend those protections to employees in the public sector for fear that public employees would strike, leading to paralysis of government until their demands were met. In 1943, the New York Supreme Court in *Railway Mail Ass'n. v. Murphy*, said, "Nothing is more dangerous to public welfare than to admit that hired servants of the state can dictate to the government the hours, the wages, and conditions under which they will carry on essential ser-

vices vital to the welfare, safety and security of the citizen."

Today, most states have laws that formalize the bargaining process for some or all public employees, and some states permit only "meeting and conferring" on work-related issues. Only 11 states allow public employees to strike. Of those, most prohibit striking for essential employees and in cases where striking would endanger public health and safety.

For example, New York's Taylor Law grants public employees the right to organize and elect union representatives, but also makes work stoppages punishable with fines and jail time. Some states prohibit collective bargaining for teachers while others prohibit all public sector collective bargaining.

### The Power of Public Sector Unions

Without either limited or no ability to strike, public sector unions may try to leverage their power to help elect the very politicians who sit across from them at the bargaining table and influence legislation that affects public employees' wages and availability of jobs. According to the California Fair Political Practices Commission, the California Teachers' Association spent more than \$211 million from 2000 to 2009 on

government, public-safety budgets can garner a larger portion of the organization's overall financial resources. Establishing trust between organization and labor union leaders is the key to having a sustainable long-term financial outlook.

Ling also added that transparency in communication is key to having strong levels of engagement.

"It's necessary to provide future direction and strategic outlook during non-negotiating years," Ling said.

### Engaging Employees in Key Decisions

Including represented groups in organization focus groups on employee matters helps fuel ongoing collaboration. Offering employees the opportunity to influence changes in employee benefits or policies actively involves them in organization decisions and increases overall engagement.

Jackie Wehmeyer, human resources director for the city of Margate, Florida, described a time when an economic downturn resulted in decreased revenues as the city's health care costs continued to rise. It was important to educate the union representatives on the drivers behind the cost of insurance and invite them

to be part of a working group to evaluate plan design options, she recalled.

Although the design of the insurance plan isn't a subject of labor negotiation, the act of asking for input demonstrated the organization's commitment to employee engagement and willingness to seek their input on matters of importance.

Involving union representatives in other key decisions such as procuring new technology, vehicles, equipment and employee insurance coverage also is important to the organization's ongoing commitment to employee engagement.

"It's all about trust," said Wehmeyer, who has 15 years of labor-relations experience representing management in multiple successful collective bargaining processes. "When employees and union representatives have the freedom to provide input, they feel more compelled to work together effectively."

### Collaborating to Find Solutions

Leaders from both sides need to challenge the status

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political campaigning — more than any other donor in the state and as much as the pharmaceutical industry, the oil industry and the tobacco industry combined. In 2005 alone, the CTA spent \$54 million to defeat initiatives intended to cap the growth of state spending and make it easier to fire underperforming teachers.

Politicians who attempt to limit the power of public sector unions and their lobbying arms need to come to the table prepared to make realistic changes. A case study of how not to negotiate with a public sector union is the Chicago Teachers' Union strike in 2012, which was in response to some of Chicago Mayor Rahm Emanuel's initiatives. Emanuel campaigned to improve the education of Chicago schoolchildren and used his political might to pass an aggressive education-reform bill without consulting the teachers' union.

The CTU brought other public unions to their cause and engaged in a 10-day strike. After an unsuccessful attempt to get a court order to force teachers back to work, both sides reached an agreement. While Emanuel did get a longer school day and longer school year, the teachers got an average raise of 17.6 percent over four years, health insurance increas-

## IN JURISDICTIONS WHERE STRIKING IS PROHIBITED, THERE ARE STILL WAYS TO REACH RESOLUTIONS OF DISAGREEMENTS.



es, seniority pay increases and raises for additional education.

In jurisdictions where striking is prohibited, there are ways to reach final resolution of negotiations if parties disagree. These include arbitration, mediation, fact-finding and bargaining without a final resolution mechanism.

In arbitration, a neutral third party facilitates discussions, examines the facts and makes a binding determination. In mediation, the parties agree on a professional who facilitates discussions and proposes solutions that both parties

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quo and begin to lean on employee groups to creatively solve problems and develop solutions to increase collaboration. International Association of Fire Fighters Union President Brian Powell experienced this firsthand when a prolonged recovery from an economic recession resulted in some cities not being able to deliver meaningful pay increases that were needed to motivate union employees.

Powell, who is president of Local 3080 of the IAFF in Broward County Florida, said that instead of making unrealistic requests, union representatives collaborated with city leadership to identify other sources of funds (including the use of state funds for benefit enhancements) that could help subsidize the cost of the pay increases.

“The union has to be willing to sit down and listen and the city’s leadership needs to do the same,” Powell said. “It’s important for each side to prove the request is fair and have ongoing dialogue to develop possible solutions.”

This strategy helped both sides meet existing challenges and enabled pay increases to be delivered sooner.

Without collaborative labor-management relations, productive dialogue is limited and results in longer, less effective negotiations. When labor unions are willing to develop a broader understanding of financial limitations, such as the need to have adequate financial reserves for unforeseen emergencies, the dialogue can become more solutions-oriented.

Based on these shared experiences, human resources professionals who are seeking a more effective labor relations strategy should consider opportunities to increase employee engagement levels.

“Building relationships needs to begin long before the start of labor negotiations,” said Powell, who has more than 15 years of collective-bargaining experience. As a union leader, he negotiates collective-bargaining agreements with multiple municipal organizations in South Florida. “Collaboration and open dialogue help build trust and increase mutual understanding,” he said.

Focusing on communication, involving employees in key decisions and collaborating to solve organization problems are all best practices for building a foundation of trust that leads to stronger employee engagement.

Positive outcomes will increase during labor negotiations when organization and union leaders seize opportunities to collaborate, learn from each other and remain committed to open and honest communication. *wf*

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can accept or decline. In mediation/arbitration, the parties jointly choose a mediator and if both parties fail to come to an agreement, the mediator becomes the arbitrator. Fact finding is a labor dispute resolution measure where an independent “fact finder” examines the arguments of both parties and offers a nonbinding resolution. In the public sector, as many state and local governments are in poor financial health, the fact finder generally sides with the employer and finds the unions’ proposals unreasonable to allow the employer to control costs.

Unions strive to secure good outcomes for the employees they represent during the initial stages of negotiations. Allowing a dispute to lead to arbitration takes the decision away from management and labor. Since arbitrators must adhere to certain standards, the awards are somewhat predictable. Generally, arbitrators reach decisions that neither labor nor management view as the best solution. In a world where labor-management cooperation has become so important, having someone with no vested interest in the outcome decide a union and agency’s fate is a poor outcome that can take years for the parties to repair.

It is encouraging to see that some state and local governments and unions are using tools borrowed from the private sector that help lead to voluntary agreements. The following are important methods that increase the likelihood of fair, voluntary agreements:

- Engage employees at the workplace.
- Use interest-based bargaining techniques in contract negotiations, where both sides declare their interests and then work together to draft agreements that align common interests and balance disparate interests.
- Share information and consult with unions on long-term strategies. Since most labor agreements are in effect for at least three years, a government’s labor relations strategy should align with its own short- and long-term financial planning and overall strategy. Given the repetitive nature of the bargaining process, successful labor-management relationships have management communicate with and involve stakeholders regularly, not just during negotiations.

Bargaining involves transparent communication between labor and management regarding terms and conditions of employment. Effective bargaining is usually measured by whether labor and management can reach an agreement without involving a third party. By demonstrating interest in building rapport, exploring alternatives, refusing to put limits on the number of topics for negotiation, and coming to the table with the goal of a solution, management can maximize the chance of a favorable outcome without compromising the operations of government. *wf*

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