

Current Trends in Public Sector Employment: Collective Bargaining Trends

NIU Financial Forecast Forum
January 20, 2017

Benjamin E. Gehrt
Clark Baird Smith LLP

Three Key Legal Developments That Profoundly Impact Collective Bargaining

1. *State of Illinois v. AFSCME Council 31*, 2016 IL 118422 (employer's appropriations authority)
2. *Jones v. Municipal Employees' Annuity and Benefit Fund of Chicago*, 2016 IL 119618 (pension reform)
3. *State of Illinois and AFSCME Council 31*, S-CB-16-017, S-CA-16-087 (ILRB, written decision pending)(impasse case)

Bargaining Update - Wages

- ▶ Illinois Interest Arbitration Awards, 2016 to Jan. 1, 2017

	2015	2016	2017
No. of Decisions	11	11	7
All awards	1.98%	2.14%	2.17%
Excluding State of Illinois	2.18%	2.39%	2.50%

First Year Negotiated Wage Increases – State and Local Govt Employees (w/o lump sums)

YEAR	WEIGHTED AVERAGE	AVERAGE	MEDIAN
2009	3.3%	2.0%	2.0%
2010	1.1%	1.3%	1.0%
2011	0.4%	0.9%	0.0%
2012	0.8%	1.1%	1.0%
2013	1.1%	1.6%	1.8%
2014	2.2%	1.8%	2.0%
2015	2.8%	2.2%	2.0%
2016	2.4%	2.4%	2.3%

Source: BNA, Dec. 20, 2016

Bargaining Update - Wages

- ▶ Consider Contingency clauses

“If, at any time during the term of this labor agreement, an action by Federal or State government impairs, reduces or eliminates General Fund Revenues such that the projected impact would result in a projected General Fund loss greater than 5% of total budgeted General Fund expenditures, then the Village and the Union will enter into a wage reopener and renegotiate wage increases described in Article XV (Wages) Section A1 and Section A2 (Appendix A) for the remaining term of this agreement.”

Carol Stream/SEIU

Bargaining Trends - Insurance



Thus far, arbitrators favor negotiated provisions over awarding Cadillac tax provisions through interest arbitration:

- ▶ Arbitrator Cox in *Oak Brook & FOP (2016)*
- ▶ Arbitrator Benn in *Barrington & FOP (2015)*
- ▶ Arbitrator Goldstein in *Sterling & PBPA (2015)*
- ▶ Arbitrator Fletcher in *Effingham & FOP (2014)*
- ▶ Arbitrator Malin in *Will County & FOP (2013)*

Bargaining Update - Insurance



▶ Reopener Language:

“Notwithstanding other provisions of Section 17.01, ..., in the event the Village’s health insurance provisions fail to meet the requirements of the Affordable Care Act and its regulations, or cause the Village to likely be subject to penalty, tax or fine, the Union and the Village will meet upon the request of the other, at least 180 days prior to the next year’s enrollment period, to bargain over an alternative provision so as to comply with the provisions of the ‘Cadillac Tax.’ The intent of the bargaining will be

Bargaining Update - Insurance



specific to the provisions of the Cadillac Tax in an attempt to avoid any penalties, taxes or fines imposed on the plan or a party.

If both sides cannot come to a mutual agreement on the costs and benefits for the following year's plan within 30 days of their first meeting, then either side has the right to utilize interest arbitration per Section 14 of the IPLRA.

The parties further agree that if the 'Cadillac Tax' is abolished, this Section will immediately sunset.”

IAFF (current agreement)

Bargaining Update – Minimum Manning

- ▶ Change in law just over a year ago
 - Only applies to fire
 - Recent developments