



Collective Bargaining and COVID-19 What Every Human Resource Professional Needs to Know.

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The Law.

• 447.309

Collective bargaining; approval or rejection.—(1) After an employee organization has been certified

pursuant to the provisions of this part, the bargaining agent for the organization and the chief executive officer of the appropriate public employer or employers, jointly, shall bargain collectively in the determination of the wages, hours, and terms and conditions of employment of the public employees within the bargaining unit. The chief executive officer or his or her representative and the bargaining agent or its representative shall meet at reasonable times and bargain in good faith. In conducting negotiations with the bargaining agent, the chief executive officer or his or her representative shall consult with, and attempt to represent the views of, the legislative body of the public employer. Any collective bargaining agreement reached by the negotiators shall be reduced to writing, and such agreement shall be signed by the chief executive officer and the bargaining agent. Any agreement signed by the chief executive officer and the bargaining agent shall not be binding on the public employer until such agreement has been ratified by the public employer and by public employees who are members of the bargaining unit, subject to the provisions of subsections (2) and (3).



What is the current climate?

- Health and Welfare Concerns.
- Social Distancing.
- Resident Job Loss.



What are Longer Term Impacts of Current Climate?

- Economic downturn/recession.
- Volatility of markets.



What that means for you.

- Potential significant reduction in municipal revenue.
- Less money for municipal projects and LABOR.



What do you do if your CBA is open?

- Plan.
- Execute.
- Implement.



Planning for Negotiations.

- Carefully select your negotiating team.
- Do you have someone at the table with operations, finance and human resources expertise?
- Do you have clear direction from your Council/Commission?



Planning For Negotiations.

- Perform economic and other analyses before commencing negotiations.
- Survey neighboring municipalities -- know how your situation compares to theirs.



Planning for Negotiations.

- Determine your municipality's priorities before negotiations begin.
- Do not make the mistake of simply waiting for and responding to union demands.
- Set goals and strategy.
- Plan pace and timing -- be prepared.



Planning for Negotiations.

- Analyze make-up of union's bargaining team.
- Bargaining team members often negotiate for their own benefit.
- Use these issues to divide and conquer.



During Negotiations.

- How to meet?
- How to notice?
- Management must be united and speak with one voice.
- Once a plan has been instituted, it should be followed unless a conscious decision is made to change the plan.
- Confidentiality of strategy is critical.



During Negotiations.

- Keep your Council/Commission up to speed.
- Hold regular executive sessions.
- Inform your Council/Commission of the union's key issues.
- Let the Council/Commission dictate your positions on key issues.



Negotiate Shorter Contracts.

- Section 447.309, Florida statutes permits parties to negotiate up to 3 year contracts.
- During times of fiscal uncertainty, a shorter contract (1 or 2 year contract) may be preferable because it provides greater flexibility.



Negotiate a Re-opener Provision.

- Negotiate provision calling for reopening of negotiations if and when certain events occur during contract term.
- Example: If there is a budget shortfall during contract term, municipality may request mid-contract bargaining concerning wages and other economic issues.



Give in on Non-economic Issues.

- If your budget precludes you from offering substantive pay raises, etc., focus on union's non-economic issues.
- Can you give union greater seniority rights? Better shift assignments?



Don't be Afraid to go to Impasse.

- Overview of impasse procedure.
- Either side may request mediation.
- Appointment of special magistrate.
- Hearings before special magistrate.
- Resolution by municipal council/commission.



Don't be Afraid to go to Impasse.

- Benefits.
 - Allows municipality to impose disputed contract articles.
 - Provides municipality with final say as to contentious issues.
- Potential detriments.
 - Political pressure on elected officials.
 - 1-year contract.



What do you do if your CBA is not open?

- Reopener?
- Layoffs/Furloughs/Pay Cuts.
- Provision Allowing City to set aside CBA?
- Financial Urgency?



Invoking Re-Opener Rights.

- Does the current agreement contain a re-opener?
- What does the re-opener provide?
- Exercise rights in accordance with the re-opener provision.



Request Mid-Contract Bargaining.

- Why would union agree to mid-contract bargaining?
- Prevent potential reduction in force/layoff.
- Is there a provision that allows you to set aside contract when declared emergency exists?
- Threat of financial urgency.



Declaring “Financial Urgency”.

- Section 447.4095, Florida Statutes permits a municipality to declare a financial urgency during the term of a contract.
- Parties required to bargain for up to 14 days.
- If no agreement is reached, parties follow impasse process.



What is “Financial Urgency”?

- Not defined by section 447.4095 Florida Statutes.
- Headley v. City of Miami, 118 So.3d 885 (Fla. 1st DCA 2013)
 - Defined “Financial Urgency”.
 - “No other alternative means of preserving contract.”
 - When Modifications can take place.
 - Not until after impasse process.



Questions?



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