OVERVIEW

• THE BASICS
• PRIORITIES THIS YEAR
• STRATEGIES
• CLOSING ADVICE
THE BASICS BEGIN WITH PERA

- The Public Employment Relations Act requires public employers to "bargain in good faith" with union representatives.
  - Meet at reasonable times and places.
  - Confer about "wages, hours, and other terms and conditions of employment . . . ."
  - Execute a contract incorporating agreements reached.
  - Does not require either party to agree to a proposal or to make a concession.

SUBJECTS OF BARGAINING

- Mandatory Subjects – wages, hours and working conditions
- Permissive Subjects – curriculum, student issues, e.g.
- Prohibited Subjects – may discuss, no obligation to bargain, may take unilateral action
- Illegal Subjects – no dues deductions, e.g.

SCHOOL REFORM – WHAT’S LEFT TO BARGAIN?

- Plenty!
  - Compensation Issues-
    - Salary and wage levels
    - Salary steps
    - Salary lanes
    - Insurance (carrier, type and level of benefits);
      NOTE: ACA requirements 1-1-16
    - Cash in lieu
    - Personal leave time (especially sick banks)
    - Fund balance – early warning legislation
SCHOOL REFORM – WHAT’S LEFT TO BARGAIN?

- Working Time Issues:
  - Increased number of student instruction days (minimum 180 student days 2016-17)
  - Increased student instruction time;
  - Increased number of teacher work days;
  - Longer teacher work day on-site;
  - Increased teacher professional development time;
  - More flexible and cost-effective class size limitations;
  - Teacher pay inequities (AP English vs elementary PE);
  - Structure of school day and school year to enhance student achievement.

COLLECTIVE BARGAINING – THE PROCESS

- Stages of the Process
  - Preparation.
  - Negotiations (Formal and Side Bar)
  - Mediation (non-binding)
  - Fact-finding (non-binding)
  - Post-fact-finding negotiations

- Outcomes:
  - Agreement; No agreement; Imposed terms and conditions

IF NO AGREEMENT...

- The Board will either implement its Last Best Offer, outsource the work (if possible), or maintain the status quo indefinitely.

- The Union will increase its efforts to change Board bargaining goals through pressure tactics (such as illegal "work to rule" or electing/recalling Board members).
DUAL-TRACK BARGAINING EFFORTS
• At the bargaining table, to reach agreement and position the Board to exercise its options under the law:
  a. Formal table position (postured for possible fact-finding and implementation of LBO or outsourcing)
  b. Informal position (where the Board can go; those positions typically explored in mediation)
• Away from the bargaining table, to counter the Union’s pressure tactics and efforts to elect/recall Board members:
  a. Prepare Board and administrators for Union tactics
  b. Development of a communications plan – setting the climate and communicating key messages

WHAT NOT TO DO
• Refuse to meet
• Make regressive proposals without justification
• Disparage union leadership
• Publish or “float” proposals not yet made to union
• Misrepresent proposals
• Engage in conversations with teachers or union leaders outside of the bargaining process
• Speak off the cuff
• Undermine District bargaining team

THE CURRENT BARGAINING CLIMATE
• Scarce and dwindling state resources unlikely to significantly improve given other needs (Flint, DPS, infrastructure needs, MPSERS legacy costs)
• Unhappy local unions due to 2011 school reforms and cases being decided at all levels against them
• Union leadership feeling a need to constantly demonstrate their value under right-to-work, so all problems become major issues
• Some teachers increasingly disenchanted and local administration and board subject to more local pressure tactics.
• Increased pressure due to early warning legislation; everyone doing more with less.
LIMITED RESOURCE BARGAINING

- Modest growth or flat or concessionary contracts
- Rapid or protracted negotiations
- Traditional forms of teacher compensation, step and lane advancement, waning in practice but growing in demand by unions and teachers
- Legal and ideological demands for merit pay but few successful examples
- No “going rate” as in the past; each District facing unique circumstances

MERC FACT FINDING

Average Wage Recommendation Per Contract Year

<table>
<thead>
<tr>
<th>Year</th>
<th>Recommendation</th>
<th>Rate</th>
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<tbody>
<tr>
<td>2015</td>
<td>-2.50%</td>
<td>-2.50%</td>
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<tr>
<td>2016</td>
<td>0.00%</td>
<td>0.00%</td>
</tr>
<tr>
<td>2017</td>
<td>0.50%</td>
<td>0.50%</td>
</tr>
<tr>
<td>2018</td>
<td>1.00%</td>
<td>1.00%</td>
</tr>
<tr>
<td>2019</td>
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</tr>
<tr>
<td>2022</td>
<td>3.75%</td>
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</table>

RECENT HISTORY

- In our office alone:
  - Brandon School District – 7.5% cut
  - Iron Mountain – 7.5% cut
  - Muskegon – $1 million cut
  - Grant – 7-9% cut
  - Hazel Park – 8.8% cut
  - Troy – 12% floor on fund balance formula and two additional steps
- Raises generally tied to more work time
ASK YOURSELF:

- Do you need a new contract?
- If seek concessions, what is union's incentive to settle?
- What is tolerance to use impasse strategies and withstand local pressure tactics?

PRIORITY:

- Fiscal House in Order – Eliminating deficits and avoiding Early Warning Legislation
- Language & Policy/Administrative Guideline Review – Prohibited and Illegal Subjects
- Health Insurance
  - PA 152: Will you switch this year?
  - ACA
- Calendar – 180 students days as of 2016-17 absent contract bar

LANGUAGE PRIORITIES

- Review prohibited subject deletion
  - Do not overlook original prohibited subjects, such as the use of technology to deliver educational services
- Review deletion of illegal subjects
  - Possible anti-discrimination obligations to address harassment of non-members
MORE LANGUAGE

• Update Board policies and administrative guidelines on prohibited subjects
  • Critical if you will layoff this year
  • Consider internal appeal process for teacher discipline to demonstrate fairness
• Update other provisions, such as FMLA

WHAT IS YOUR FISCAL CONTEXT?

• MUST YOU ACHIEVE CONCESSIONS?
  – BY WHAT DATE?
  – BY HOW MUCH?

WHAT IS YOUR FISCAL CONTEXT?

• IS STATUS QUO ACCEPTABLE?
  – THEN RIDE PA 54, YOUR “BEST FRIEND”
  – FOR HOW LONG?
  – WHAT CONDITIONS WILL ALLOW PAY INCREASES OR REQUIRE CONCESSIONS?
  – BY WHAT DATE?
• IF PAY INCREASES ARE ON THE HORIZON, ARE THEIR COSTS SUSTAINABLE?
  – FOR HOW LONG? ON OR OFF SCHEDULE?
WHAT IS YOUR FISCAL CONTEXT?

- Early Warning Legislation
  - Must maintain at least a 5% fund balance for a rolling two consecutive years;
  - Reports on financial information due to CEPI by July 7 each year.
  - Treasurer may declare potential financial stress based upon financial and enrollment information provided.

EARLY WARNING LEGISLATION CONCERN

- May spell the end of financial autonomy:
  - Must provide additional financial information to Treasurer;
  - May contract with its ISD to conduct administrative review of finances.
  - Districts should communicate the significance of not having a 5% fund balance.

WHAT ASSUMPTIONS TO USE?

- OFFER 2-3 FORECASTS: BEST CASE, WORST CASE, MODERATE CASE
- MODEST FUNDING INCREASES (GOVERNOR $60/$120)
- 3% INSURANCE INCREASE IF HARD CAP, MAYBE GREATER % IF NOT HARD CAP
- LESS THAN 1% DECREASE IN MPSERS COSTS (BUT IS IT SUSTAINABLE; PENDING DPS LEGISLATION WOULD IMPACT COSTS BY REMOVING DPS TEACHERS FROM SYSTEM)
- ENROLLMENT – RELY ON YOUR HISTORY AND/OR BLENDED EXPERT PROJECTIONS
- CLEARLY EXPLAIN ASSUMPTIONS AND THEIR BASIS
REASONABLY PRUDENT FORECASTS

- Acknowledge upfront your budget philosophy: assume the worst and hope for the best
- Assume various levels of budget variance if that is your history
- Maintain open book philosophy and complete transparency
- Respond promptly to FOIA/PERA requests that are reasonable

CURRENT COMPENSATION STRATEGIES

- Off-Schedule Payments
- Delay / Partial Steps (e.g., 1 step over 2 years, half-steps)
- Formula or “Trigger” for cuts and raises
- Expanded salary steps (e.g., 11 steps to 14+)
- Reduced Lanes and/or Longevity
- Compensation for increased work time / instruction time (180 student instruction days in 2016-2017)

FORMULA/TRIGGER BASICS

- Quantify and automatically adjust/respond to factors beyond the control of the district/employees; i.e., if fund balance falls below some “trigger” (10%, 12%, etc.), the salary schedule is reduced
  - Provides fiscal certainty for districts
  - Provides ability of parties to allow for multi-year agreements
  - Ensures that everyone has some “skin in the game”
  - Assures employees they maintain their “fair share”
FORMULAS AND TRIGGERS

- Salary increases conditioned on enrollment or per pupil funding levels or combination thereof
- Share "excess" fund balance amounts off-schedule, one time
  - Combine with "merit pay" requirements for effective and highly effective teachers

WAGES

- Two-tier wage scales
  - Structural change
  - Long term
  - Short-term savings may be minimal
  - Hard feelings? Low morale?
  - Difficult to compete with contractors for non-instructional staff, given MPSERS cost

OTHER AREAS TO REVIEW

- Staffing levels
- Class size
- Time off (sick, vacation)
- Insurance benefits
- Work time
- Working conditions
WHAT ABOUT “MERIT PAY?”

- Misnomer
- Section 1250 of Revised School Code requires that compensation and additional compensation be based on job accomplishments and job performance.
- Especially difficult to address in a climate of concessions or pay freezes

ALTERNATE SALARY SCHEDULES

- TO DATE, PRIMARILY AN ISD PHENOMENON (PROPERTY-TAX BASED FUNDING)
  - ST. CLAIR, LENAWEEL, LIVINGSTON, KRESA
  - BLISSFIELD, OTHERS
- SEE TNTP ARTICLE: The Hidden Costs of Lockstep Teacher Pay
- OTHERWISE, TIE STEP AND LONGEVITY TO EFFECTIVENESS RATINGS.
- OUTSIDE OF CBA, PROVIDE ADDITIONAL COMPENSATION TIED TO VARIOUS CRITERIA.

EX. OF ALT SALARY SCHEDULE: ST. CLAIR RESA

<table>
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<th>Effective</th>
<th>Highly Effective</th>
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<tr>
<td>N 12</td>
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</table>
MI Effectiveness Ratings*

- Ineffective Teachers & (Administrators)
  - 2011-2012: 0.8% (0.7%)
  - 2012-2013: 0.6% (0.5%)
  - 2013-2014: 0.5% (0.3%)

- Minimally Effective Teachers & Administrators
  - 2011-2012: 2.04% (1.76%)
  - 2012-2013: 2.41% (2.24%)
  - 2013-2014: 2.26% (2.37%)

- Effective Teachers & Administrators
  - 2011-2012: 74.6% (74%)
  - 2012-2013: 64.4% (68%)
  - 2013-2014: 59.3% (66%)

* Source: MDE/CEPI Website Staffing Reports

Increase in Highly Effective Educators

- Highly Effective Teachers
  - 2011-2012: 23%
  - 2012-2013: 33%
  - 2013-2014: 38%

- Highly Effective Administrators
  - 2011-2012: 23%
  - 2012-2013: 29%
  - 2013-2014: 32%

97% of Teachers = Effective or Highly Effective
98% of Administrators = Effective or Highly Effective

INSURANCE

- SELF FUNDING
- LOWER COST PLANS
- DO NOT PAY MAXIMUM PERMITTED BY PA 152
  - District Cap Lower Than Hard Cap
  - % Less Than 80
  - Single Premium Only
- DO NOT PAY NON-HEALTH BENEFITS
- PAY VERY SMALL % NON-HEALTH BENEFITS
Because You Never Know How You Will Achieve Your Goal

- ELIMINATE OR REDUCE:
  - TUITION REIMBURSEMENT
  - EXTRACURRICULAR SCHEDULES
  - SICK LEAVE BANKS
  - OTHER REIMBURSEMENTS
  - EXTRA HOURLY RATES
  - CLOTHING ALLOWANCE

LEAVES OF ABSENCE

- Paid leave days increase sub costs and reduce educational quality
- Reduce number of sick days and/or change how earned
- Reduce number of personal business days
- Make attendance a factor in "merit pay"

PROVISIONS TO AVOID AT THE TABLE

- "Sunset" provisions
- "Cleaning" personnel files
- Sick bank
- Notice or investigation of complaints against employees within a specified time period
- Requirements to "confront accuser"
- Other limitations on employee investigations
PROVISIONS TO AVOID AT THE TABLE

• Incorporating or retaining statements of law in contracts
• Calculating extra duty as a percentage of salary
• Absolute class-size maximums
• Specific starting and end times to instructional day
• “Weighting” of special education students.

PROVISIONS TO AVOID AT THE TABLE

• Job descriptions in the contract
• Maintaining fringe benefits on extended unpaid leaves
• Expensive severance benefits based upon unused sick leave days
• Use of sick leave days to supplement Workers’ Compensation benefits

PROVISIONS TO AVOID AT THE TABLE

• Specifying steps of progressive discipline (non-teacher);
• Limitations on use of teacher prep time;
• Incorporation of outside materials by reference
• Overtime beyond that required by law.
It is also worth considering attempting to remove these provisions if they are already in the contract.
Points to remember when bargaining in times of economic distress:

- Assemble the right team
- Prepare your Board and your administrative team
- Develop your messaging for your staff and community
- Know your union
- Consider your style of bargaining (IBB?)
- Develop a timetable based on economic and operational needs

Begin with a “state of the District’s finances”
- Accept “working without a contract”
- Understand your bargaining leverage
- Demonstrate shared sacrifice
- Put all of your cards on the table; be transparent
- Be open to adjusting bargaining goals in light of changing realities

School reform legislation has significantly changed the playing field to school districts’ advantage, especially if you can live with the status quo under PA 54.
- Aim high and retain maneuvering room for mediation, fact-finding and post-fact-finding negotiations.
- Goals should include creating leverage for the next contract.
- It may not be anyone’s “fault” that the contract is not yet settled…concessionary bargaining remains tough.
- The school district can survive and be improved as a result of negotiations, even if protracted.
- The contract will eventually be settled!
Thank you!

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