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As we head into new negotiations and try to bring protracted bargaining in numerous other jurisdictions to a close, we continue to face challenges. Those are now shifting from adverse economic conditions to adverse political and social realities. Labor unions are struggling with their public image, which can have a huge affect on negotiations. Part of the problem is that local and national organizations are vying with multi-national corporations in a global economy where standards are becoming less important. Public employees face this problem under the threat of outsourcing. Fighting for decent wages metamorphoses into chasing jobs overseas and the power imbalance between employers and employees becomes even more lopsided.

“\textit{We cannot afford to fall victim to nearsightedness, shrugging off the challenges facing other workers and the larger, collective goals and values we share.}”

Rate of Unionization Shrinking

Today, only 11.3% of workers belong to a union, and most of those are in the shrinking public sector. In the private sector where the vast majority of workers reside, the rate of unionization fell to a miniscule 6.6%, down from a peak of 35% during the mid-20th century. Unions have fallen victim to a vicious cycle driven by fighting to maintain the status quo on wages and keep jobs in bad times. When you add in the effect of 50 years of right-wing anti-union propaganda, and the continual erosion of union membership and clout, you end up with 59% of the public having an unfavorable view of unions and, ironically, 60% saying they have too much power. This is a stark difference from the 70% of the public that supported labor unions in 1937.

History Could Repeat Itself

We are losing our collective understanding of how bad things were in the late 19th and early 20th centuries, and how bad they could be if unions continue to fade away. If this happens, we’ll effectively hand our democracy over to big money and corporate interests. In these dire times, we cannot afford to fall victim to nearsightedness, shrugging off the challenges facing other workers and the larger, collective goals and values we share.
New Year Could Build Upon Improvements of the Last

This is the time of year when we reflect on the past and look to the future for continued progress for workers and their families. Last year we finally saw a return to California’s fiscal stability and a renewed effort toward a progressive labor agenda in the Legislature.

Labor came into 2013 with a big agenda. We increased the minimum wage for the first time in years; it will be $10 an hour by 2016. We modified family leave laws to better reflect working families’ needs, and improved basic wage laws that provide better protections.

Turning to 2014 we are confident that years of cuts are finally behind us. Barring disaster, California will have budget surpluses for the foreseeable future, making this year prime time to fight for the restoration and expansion of local programs where our members work. Assembly Democrats have already released a proposal to use some of the surplus to restore cuts to state, local, and educational services.

We will also be gearing up for another major election year with numerous state ballot measures up for a vote in 2014. Governor Jerry Brown’s seat is up for re-election, and all statewide offices will be on the ballot.

Out with the old, in with the new? Despite all the advances on the horizon, not everything is looking up. We may face another round of so-called pension reform. Chuck Reed, Mayor of the City of San Jose, has decided to take his act on the road and is pushing a statewide ballot initiative that attacks public employee retirement.

His proposal would allow local governments to cut and in some cases, eliminate retirement benefits. Local 21 is actively engaged with Californians for Retirement Security, a statewide coalition of retiree and public employee groups, to push back. Reed may have problems securing the millions of dollars needed for the campaign and is expected to announce in the next month whether he will continue to move towards the November 2014 ballot, or wait until 2016.

Other proposals for the 2014 state ballot include a vehicle tax to fund street repairs and public transit, limits on what hospitals can charge patients over actual costs, restrictions on hospital executive pay, regulations on health insurance premiums for certain types of employers, and an oil extraction tax (California is one of a handful of states without this tax). Nearly 50 ballot measures have been cleared for signature gathering or are awaiting review by the Attorney General. Many won’t gather enough signatures or garner needed support to make the ballot, but all bear watching.

Tied to South Africa Movement, Mourning Mandela Loss

Local 21 mourns the loss of Nelson Mandela, whose long walk to freedom inspired millions of South Africans and millions more around the world to embrace democracy and inclusiveness.

The Bay Area was a hotbed of activity against the apartheid government, which is why Mandela chose Oakland as a stop on his American tour. He was a tremendous supporter of labor unions and working families.

Many Local 21 members were active in the Free South Africa Movement including City of Oakland’s Andrea Turner, Program Director for the city’s Senior Companion & Foster Grandparent Program. Turner is a founding member of the legendary Vukani Mawethu South African choir. Oakland member Miloanne Hecathorn, Management Assistant, started her career with the City overseeing the implementation of Oakland’s South Africa Divestment Ordinance, the most comprehensive ordinance in the country.
Unions seek creative, financially sound solutions to protect retiree healthcare

by MIKE SEVILLE

Within the last couple of years many jurisdictions were dealing with pensions. Employers were trying to reduce or eliminate retirement benefits for hard working public employees, either because of growing costs or opportunistic efforts to cash in on a wave of anti-public employee sentiment.

We entered heated negotiations and in many cases, reached positive agreements with employers who recognized the benefits of negotiating legal changes to those vested rights. In other cases, our disagreements escalated, and some issues have moved to the forefront of legal battles, which the nation eagerly awaits the decisions. Retiree healthcare is the next area where we will be tested and battles will be fought.

The battle being waged across public jurisdictions nationwide is the fight to preserve retiree healthcare. Local 21 members across the Bay Area are working hard to come up with creative and financially sound measures to deal with employers and the new rules that account for the costs of these benefits.

Here are some of the major hot spots for retiree healthcare we are engaged in around the Bay Area.

San Francisco unions go to ballot box, pass Measure A

When Mayor Ed Lee approached city unions with the financial projections of over $4 billion in unfunded liabilities, Local 21 members and a majority of unions knew they needed to do something to ensure that the benefit was sustainable and secure for future workers and retirees.

By working through the Public Employee Committee, a coalition of non-sworn city unions, and teaming up with Supervisor Mark Farrell, Local 21 and other unions placed a measure on the November 2013 ballot which sought to create a model for other jurisdictions for how to address soaring costs while maintaining benefits for its members.

Measure A was overwhelmingly approved by voters and created a financial mechanism whereby over the next 30 years, the contributions from newer employees set aside in a fund cannot be used for other purposes. The contributions were previously agreed to via negotiations and an ensuing ballot measure in 2008, but the original language created a loophole allowing the fund to be raided under certain circumstances.

The earnings from the invested funds will help reduce the liability over a longer period and give the City the structural position to improve its financial outlook. Protecting the fund ensures that the monies set aside for retiree medical will be there for generations of future retirees.

“By working with other unions and elected officials, we were able to form a unified coalition which was the right decision to sustain our retiree medical benefits. Working collaboratively is the best way to solve these complex issues.”

— Mary Marzotto

San Jose unions negotiate solution

On the heels of a contentious pension battle, both at the ballot box and in the courtroom, in late 2012 the City of San Jose continued its attack on employee benefits. This time, its sights were set on retiree healthcare. Our membership was wary of Mayor Chuck Reed and his majorit on the City Council, and we were not in the mood to discuss another round of concessions.

After working with the Federated unions coalition, a group of city unions,
we collectively reached a negotiated agreement in the spring of 2013 to work collaboratively with the City to find a solution to growing retiree medical costs.

The agreement provided for a working group comprised of the City, all federated unions, and the Retiree Association, to dig into the details of retiree medical benefits, explore options for making legal structural changes and find an appropriate benefit for City employees.

“There is little trust between us and the Mayor at this point,” said Local 21’s Vice President John Mukhar. “But we recognized that we should try to negotiate a fair deal on retiree healthcare and the working group at least provides a forum for doing so.”

The Working Group has retained a consultant and has been meeting twice a month to explore a wide range of issues. Per the agreement, no changes can be implemented until January 2018, unless a negotiated agreement is reached.

Contra Costa unions go to court

Another fight is occurring in Contra Costa County, where the contract language states that the retiree medical benefit will be the same as active employee medical.

In 2009, the County capped its contribution to healthcare at a flat dollar amount, effectively ending its pick up of any healthcare inflation, and placing the burden of paying for growing health care costs on employees and retirees. There have not been any increases to the cap since, despite the fact that medical premiums continue to skyrocket.

Additionally, the County eliminated retiree medical benefits for all future hires in 2009, becoming one of the few jurisdictions not offering retiree healthcare, and making the County a less than ideal place for new candidates to seek employment.

The County is making a familiar argument. The Governmental Accounting Standards Board’s (GASB) accounting rules require that public employers now report future liability for other post employment benefits (OPEB), namely retiree medical benefits, for 30 years out. In the past the employer only listed the liability on a year-to-year, pay as you go basis. With this change, jurisdictions run the risk of having their bond rating lowered, as they suddenly appear to have greater liabilities on their books.

In response to GASB’s rules, the County capped their active employee healthcare so they would not have to account for any additional employer contributions to the retiree healthcare on its ledger. This had the effect, according to the County, of wiping millions of dollars of debt from their books.

Contra Costa County’s actions go against the spirit of the negotiated language and the employer’s history of providing retiree healthcare, which provides a necessary benefit to their retirees who committed their careers to serving County residents.

Local 21, along with other unions, have gone to court to force the employer to honor its promises.

We must protect long-term viability

While there may be, in some situations, financial reasons to reform retiree healthcare, we are limited in the changes we can make due to vested rights that our members have obtained in each benefit. Vested rights are a term, which means that the promise made by the employer, and the reliance by the member on receiving those benefits in a deferred manner, create a right that cannot be changed unless the change produces and delivers the equivalent benefit, in terms of financial returns.

There are several high profile lawsuits working their way through the court system dealing with retiree healthcare, all of which make negotiating around these benefits challenging, both for good employers trying to work collaboratively with unions, and for union negotiators who are trying to find ways to protect the long term viability of these benefits.

What GASB Requires of Public Employers

GASB 45 requires the following disclosures on financial statements:

1. Information about the OPEBs: what are the benefits, who is eligible for the benefits, how many employees and retirees are covered, and so forth.

2. The actuarially determined liability for OPEB benefits and the assets (if any) that are available to offset the liability; also information about the actuarial methods and assumptions that were used to calculate the liability.

3. The portion of the liability that must be reported as an annual accounting expense on the employer’s financial statements, and a cumulative accounting of the extent to which the plan sponsor actually makes contributions to offset its annual expense.

adapted from en.wikipedia.org/wiki/Governmental_Accounting_Standards_Board
Last summer the Bay Area saw one of the most contentious, publicized labor disputes in recent history. The Bay Area Rapid Transit (BART) workers were embroiled in a dispute over contract negotiations that involved bad faith negotiations, two strikes, media warfare, and condemnation in the court of public opinion.

After five years with no wage increases, BART unions sought to restore $100 million in concessions they had made during the recession, as well as address numerous safety concerns.

From the onset, BART management took an aggressive stance, demanding more than $150 million in additional concessions including a 12.5% pay cut. Management tried to go after workers’ pension benefits by imposing a lower retirement formula on new employees, an effort which was ultimately blocked by Governor Jerry Brown.

As negotiations dragged on for months the unions grew increasingly frustrated with management’s lack of willingness to bargain in good faith.

BART manipulated the media
To make matters worse, BART made it clear that the only party they were willing to talk to was the media. They used the press to perpetuate the idea that BART has some of the highest paid transit workers in the nation, inflating salary figures and pitting the public against workers.

Following countless delayed and skipped meetings, the unions went on strike for the first time in July, and again in October. The strikes, while demonstrating how essential BART workers are in keeping the Bay Area running, also highlighted how the media was central in painting workers as greedy, overcompensated public servants.

Nearly every news outlet featured enraged commuters commenting on how striking workers should be fired. BART negotiators had tried to provoke a strike all along, as they knew the unions could never agree to the concessions being sought. BART’s lead negotiator, Tom Hock, had a history of union busting and a financial interest in the strike; he is Vice President of Veolia Transportation, the company used to provide “scab” buses during both strikes.

In the end the parties arrived at a settlement in large part because of a tragic train accident that killed two people when BART management ignored the unions’ calls for improved safety, and put untrained operators at the helm of trains during the second strike.

We can apply lessons from BART strike to our own negotiations
While Local 21 members were not directly involved in BART negotiations or the strikes, there’s a lot we can learn from what happened as we enter into combative contract negotiations in 2014.

While BART unions ran a campaign that sought to illustrate the sacrifices workers had made and put a human face on the services they provide, it was management that was ultimately successful in using the media as a tool to sway public opinion and shape discourse around public workers’ compensation.

As public employees, it’s imperative we fight for justice in the workplace while simultaneously educating residents about who we are, the importance of the work we do, and why a healthy public sector is dependent on having high caliber, fairly compensated employees.

This can only be achieved by taking a proactive, offensive approach within the scope of a larger contract campaign to improve our public image and have a voice in our communities.
What Should I Know about Contract Bargaining?

Q What happens if our contract expires before we ratify a new one?
A Most of the terms and conditions of an expired contract, often called a Memorandum of Understanding (MOU), remain in effect until a new contract is negotiated whether or not there is an agreement to extend between the union and employer.

Q How long does bargaining usually take?
A The time it takes to bargain a contract is based on many factors. The number of proposals and complexity of issues addressed in negotiations, presence of active and unified support of the Union’s bargaining team by the membership, level of preparedness on behalf of the employer’s bargaining team, and other internal issues can all impact how quickly bargaining progresses. Some chapters have concluded bargaining in a handful of sessions, while others have taken well over a year.

Q What types of issues can be bargained?
A Topics which are “Mandatory Subjects of Bargaining” include wages, hours, and other terms and conditions of employment such as benefits, working conditions, promotion, employee development, and policies related to discipline. The impact, process, and implementation of layoffs are also mandatory subjects of bargaining; “Permissive Subjects of Bargaining” include policy decisions, like the decision to layoff employees, and do not have to be negotiated.

Q What actually happens at the bargaining table?
A After agreeing on ground rules, which is not a mandatory subject of bargaining, the union and employer present proposals and counter proposals. Usually, non-economic issues are addressed before bargaining on economics (wages and anything with a financial impact). When both sides reach a tentative agreement, they go to their principals (in Local 21’s case, the chapter membership) for ratification.

Q Is the employer required to pay us back for concessions made, or grant wages retroactively to when the contract expired if bargaining extends beyond the contract expiration date?
A Concessions previously agreed to cannot automatically be recouped without a new agreement, unless the previous concessionary agreement included terms to repay employees. During contract negotiations, new wage agreements do not automatically take effect on the first date of a new contract term. Wage increase amounts and implementation dates are negotiable.

Q What happens if an agreement cannot be reached?
A If both the union and employer cannot reach agreement, either party may declare an impasse. If this happens, the Union may invoke “fact finding.” California law (AB 646) outlines a detailed process for “fact-finding” before an employer can impose any terms and conditions. Once the Public Employment Relations Board determines there is true impasse, a fact-finding panel (chosen by both sides) holds a hearing and reviews relevant facts including the City’s financial condition, compensation levels at comparable jurisdictions, the Consumer Price Index, and local, state, and federal laws. The panel makes non-binding recommendations intended to bring the parties together. Once the fact-finding panel issues its report, following a public hearing and a 10-day waiting period, the employer may implement its last, best, and final offer on a particular subject. However, it is prohibited from imposing a complete contract.

Q What role can I play during negotiations?
A Stay informed by reading your team’s bargaining bulletins and attending meetings! Members who know what’s happening at the bargaining table can provide input to their bargaining team and help win a strong contract. You can also get involved by joining your chapters’ Contract Action Team, attending City Council or Board meetings, and showing support for your team by wearing your Local 21 button or shirt on bargaining days.
San Jose’s Morrow is Dedicated to Parks, Community

It takes a lot of skill and dedication to keep San Jose’s parks running. Andre Morrow, a Maintenance Supervisor for the City, manages the maintenance teams for 65 parks as well as Lake Cunningham Regional Park and the largest skate park on the West coast.

Overseeing the upkeep and care of the largest park district in the City has its challenges. In recent years, budget cuts have taken a toll on Morrow and the Parks and Recreation team he supervises. Half his crew have lost their homes after years of deep pay cuts, and their staffing levels are down by 40 percent.

“We’re doing a lot more with a lot less,” said Morrow. “We work more hours to serve the public, but the public doesn’t know what the personal impact has been on us.”

Despite these hardships, they have not let that disrupt their commitment to residents. They received the Park division Golden Shovel award for their teamwork in four of the last five years.

Morrow recently completed a Park Manager Educational program through the California Park & Recreation Society. Completing the three-year course was one of the hardest and most enjoyable experiences in his professional life, he said. Since then, he has remained active with the organization, recently co-chairing and organizing its annual state conference.

Political activism and professional work promote healthy public sector, community Morrow is also active in politics, raising funds and support for Democratic candidates locally, and in his family’s home state of Hawaii. His work personally and professionally demonstrates his commitment to promoting strong communities and a healthy public sector at all levels.

A City employee since 2001, he’s been active in Local 21’s Association of Maintenance Supervisory Personnel (AMSP) chapter since its affiliation with IFPTE Local 21. Morrow stepped up to be Sergeant at Arms because he wanted to be a voice for his brothers and sisters in the union. Now, he’s transitioned to another role where he sits on the chapter’s Board.

“Unions have been there to ensure our future is kept intact by fighting for fundamental rights in the workplace,” said Morrow. “We need unions to protect people who are working hard.”

Morrow’s first experience in a union was in 1976 when he worked as a baggage handler at Honolulu Airport. Today, he’s a leader in AMSP and sees his biggest role as advocating for the people in his unit and city. His family has also followed in his footsteps; both his wife and son are city employees and union members.

“I love what I do as a public servant and I will continue to work hard for the public,” said Morrow. “Hopefully we will get more support from the public as time goes on.”

Around 21 highlights Local 21 members’ activities in and around the Bay Area. Send your union-related photos and captions to anjali@ifpte21.org.

Contra Costa members Liza Mangabay, Cathy Lueders, Lori Sullivan and Jason Chen presented non-profit Kids at Work with a $1,000 donation from their holiday party funds.

San Jose members Sim Ong of AEA and Paul Blach of AMSP celebrate at the 8th Annual South Bay chapters’ holiday luncheon.

San Francisco Purchasers Juan Bahena and Gloria Gill gather at their chapter’s holiday party.