



Wisconsin County Highway Association



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Act 10 Impacts on County Highway Departments

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...relationship focused

Two Major Issues



- Following Act 10, County Highway Departments have a lot latitude in how they will manage their employees
- Two major issues come to the forefront that County Highway Departments can address and change the landscape of management:
 1. Compensation
 2. Overtime

Introduction to the BRB



- New Age in Management of County Employees
- How counties and the individual county departments respond will define the course of local government management for years to come
- Are you prepared to meet the challenge?

Major Provisions in BRB



- Changes to Collective Bargaining Laws
- Changes to Wisconsin Retirement System
- Changes to Public Sector Health Insurance Benefits

Changes to Collective Bargaining



- The BRB modifies current collective bargaining laws by creating two classes of employees: “general municipal employees” and “public safety employees.”
- Public safety employees are limited to the following:
 - Police officer;
 - Fire fighter;
 - Deputy sheriff;
 - County traffic police officer; and
 - Village combined police/fire officer
- Every other employee is considered a general municipal employee.

Changes to Collective Bargaining



- For public safety employees, collective bargaining laws do not change. They can continue to bargain over wages, hours and terms and conditions of employment.
- This includes bargaining for the employer to pay the employee-required WRS contribution and for the employer to pay more than 88% toward the premium of a health plan offered under the state plan.

Changes to Collective Bargaining



- For general municipal employees, collective bargaining laws change dramatically.
- The only subject that can be bargained is *total base wages*. Total base wages excludes any other compensation, including, but not limited to, overtime, premium pay, merit pay, performance pay, supplemental compensation, pay schedules, and automatic pay progressions.

Bargaining Base Wages



- Bargaining Based On The CPI The BRB limits increases to base wages that may be bargained by local governments, and in some cases requires employers to bargain for decreased base wages. This is because the BRB ties negotiated base wages to the consumer price index (CPI).

Bargaining Base Wages



- If there is an *increase in CPI* over the 12 month period immediately preceding the date of determination (CPI Change), a municipal employer cannot make a bargaining proposal to increase the total base wages of general municipal employees (as determined six months prior to the expiration of the previous collective bargaining agreement) by a percentage greater than the CPI change.

Bargaining Base Wages



- If there is a *decrease in CPI* over the 12 month period immediately preceding the date of determination, a municipal employer cannot make a bargaining proposal that is more than total base wages (as determined six months prior to the expiration of the previous collective bargaining agreement) decreased by a percentage of that expenditure that is equal to the decrease in the CPI change in the last 12 months.

Referendum On Wages



- If a local government wishes to increase total base wages by a percentage that exceeds the CPI change, the governing body of the local government must adopt a resolution specifying the amount by which the total base wages increase will exceed the CPI limit. The resolution may not take effect unless it is approved in a referendum called for that purpose. The referendum must occur in November for collective bargaining agreements that begin the following January 1. The results of a referendum apply only to the total base wages in the next collective bargaining agreement.

Changes to Collective Bargaining



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Changes to Collective Bargaining



- Every other subject of bargaining is prohibited such as seniority clauses, hours of work, schedules, work rules, vacation and sick leave clauses and health insurance clauses.
- Contracts for general municipal employees cannot be longer than one year.

Certification of Bargaining Units



- Each year, the WERC must conduct an annual election to certify the representative of collective bargaining units containing general municipal employees.
- If no representative receives 51% of the vote, the WERC must decertify the current representative at the end of the collective bargaining agreement and the employees that were in the collective bargaining unit cannot be included in a substantially similar unit for 12 months.

Recertification Petition



- The recertification petition from the bargaining unit for general municipal employees, who, as of January 30, 2012 are not subject to a CBA or to an extension of their CBA, are due January 30, 2012.

Recertification Vote



- Election is required no later than April 30, 2012 for municipal employees. The 51% requirement applies to not only those employees that participate in the vote, but is based upon all employees entitled to vote.
 - Burden on employer to produce solid eligibility list
 - Bargained agreements regarding inclusion and exclusion within a unit will need to be revisited.
- Certification process applies only to general municipal employees

How Will Recertification Impact You?



- What will be the role of the union after recertification?
- How will discipline be handled?
- What will union membership look like?
- What is the general sentiment today?
 - What is the “word on the street” with respect to the role and place of unions?
 - What does the general sentiment signal?

Dues Deduction and Fair Share Eliminated



- The BRB prohibits a municipal employer from deducting union dues from the paychecks of general municipal employees.
- General municipal employees in a collective bargaining unit but who are not part of the union would be prohibited from paying fair-share dues to the union.
- Dues deduction and fair share continue for public safety employees, even during a contract hiatus period (unless the collective bargaining agreement expressly provides otherwise).

Interest Arbitration Eliminated



- Under current law, there is a defined process for impasse resolution:
 - Exchange of initial proposals;
 - Negotiation;
 - Investigation to determine impasse;
 - Mediation; and
 - Interest Arbitration.
- Under BRB, the impasse resolution process is altered dramatically:
 - Exchange of initial proposals;
 - Negotiation; and
 - Mediation.

Changes to Wisconsin Retirement System



Except as otherwise provided in a collective bargaining agreement entered into under subch. IV or V of Ch. 111, an employer may not pay on behalf of a participating employee, any of the contributions required under par. (a).

- The only stated exception to the retirement contribution rules is for “public safety” employees covered by a collective bargaining agreement.
- Provision is effective immediately, but does not impact collective bargaining agreements that exist as of the effective date of the law.

Changes to Wisconsin Retirement System



- Under the BRB, both general participants and elected officials must pay one-half the actuarially-required contributions, as set by ETF. (For 2011, the required contribution for general employees is 5.8% and for elected officials it is 6.65%)
- If the employee is covered by a CBA, the change is effective the day the agreement expires or is terminated, extended, modified, or renewed, whichever occurs first.

Other Exceptions



- The law does not address individual employment contracts that may require employer payment of an employee's WRS contribution. The U.S. and Wisconsin Constitutions prohibit legislative impairment of contracts, but the rule is not absolute. To determine the BRB's impact on individual contracts, those contracts should be reviewed by legal counsel and local governments should strongly consider obtaining a legal opinion before proceeding.

What is the Effective Date of the WRS Changes?



- Non-represented employees, general municipal employees without a CBA in effect and public safety employees hired on or after July 1, 2011 will begin paying required WRS contributions the first day of the first payroll period beginning on or immediately after July 31, 2011.
- All non-represented employees, general municipal employees without a CBA and public safety employees should be paying their employee-required WRS contribution

Changes to Wisconsin Retirement System



- The BRB makes changes to the multiplier used to calculate the normal pension benefit for elected officials.
- Under the BRB, the multiplier for elected officials is reduced from 2% to 1.6% (the same multiplier used for general employees).
- This provision first applies to service that is performed by elected officials on the first day of a term of office that begins after the effective date of the BRB.

WRS Eligibility for New Employees Initially Employed by a WRS Employer



- A new employee who was initially employed on or after July 1, 2011, who had no prior employment with a participating WRS employer would be evaluated under the new eligibility requirements:
 - Employee is expected to work at least two-thirds of full time per year (defined as 1,200 hours); **and**
 - Employee is expected to be employed for at least one year (365 consecutive days, 366 in leap year) from employee's date of hire.
- A new employee hired on or after July 1, 2011, who had any employment with a participating WRS employer prior to July 1, 2011, is evaluated under the old eligibility requirements:
 - Employee is expected to work at least one-third of full time per year (defined as 600 hours); **and**
 - Employee is expected to be employed for at least one year (365 consecutive days, 366 in leap year) from employee's date of hire.

Changes to Health Insurance



- For local government employers that participate in a health insurance plan offered by the Group Insurance Board (GIB)(the state plan), a local government cannot offer the GIB health care coverage plan to its employees if the employer pays more than 88 percent of the average premium cost of plans offered in any tier with the lowest employee premium cost (tier-1 plan).
- The effective date of this provision was January 1, 2012, unless the employee is covered by a CBA.
- If the employee is covered by a CBA, the change is effective the day the agreement expires or is terminated, extended, modified, or renewed, whichever occurs first.

Health Insurance for Counties



- BRRB gives counties tremendous flexibility in plan design and cost allocation (assuming counties are not state plan participants):
 - Premium contribution*
 - Co-Pays
 - Network
 - Coverages
 - Deductibles
 - Coinsurance
 - HRA/HSA

Health Insurance for Counties



- Focus on plan costs and implement measures to control costs
 - Use a scalpel, not an axe
 - Understand and implement concepts of consumerism in health care plan design

Health Insurance Should Be Viewed In The Context Of An Overall Compensation Program



- Health insurance plans should be viewed as part of a compensation program aimed at attracting and maintaining quality employees.
- Find insurer with flexibility and understanding of utilizing the flexibility offered by the BRB to design a health care plan which minimizes the cost of health insurance while providing quality and competitive benefits to employees

The Grievance Procedure Mandate



- The collective bargaining agreement template does not work.
- As of October 1, 2011, a county that did not have a civil service system on the effective date of the bill should have established either a civil service ordinance or a grievance system
- Do you “own” your grievance procedure?

Grievance Process



- Any civil service system that is established under any provision of law, and any grievance procedure that is created as required by the BRB, should contain at least all of the following provisions:
 - a. Employee terminations;
 - b. Employee discipline; and
 - c. Workplace safety.

The BRB Creates Obligation



- In the post-BRB world, we are charged with the responsibility of creating an environment where:
 - We deliver the best possible services at an economical rate
- As a service organization, a county has to care for its most valuable asset
 - Policies need to be designed to attract and retain the most qualified individual to perform the job in question

Meeting the Challenge



- **The focus is on process, not product**
 - Only you have the power to create the roadmap
 - The roadmap may change – everybody has to take a detour every once in awhile
- **Why go it alone?**
 - Are there any other ships in this ocean?
 - Can we make the case for collaboration?
- **Have you created your transition team?**
 - Is it really a “HR” problem?
 - What areas of county operations are impacted through the BRB?

Transition Team



- The issues surrounding the BRB and the 2011-2013 Budget have three components:
 - (1) personnel and human resources;
 - (2) financial; and
 - (3) programmatic.

Transition Team (cont'd)



- Personnel and human resources managers will be required to design and implement work policies, work rules, and a grievance procedure that complies with the mandate contained within the Joint Finance Amendment to the BRB.
- Business managers will need to analyze a county's budget in light of the cuts contained in the Governor's 2011-2013 Budget and determine how much savings must be derived from a county's current and future budgets in order to align with revenue projections.
- Finally, county leadership must work to identify areas where efficiencies can be created.

Transition Team (cont'd)



- The Transition Team's charge should be straightforward: identify the process by which the evaluation and eventual implementation of change should take place and then establish a timeline for completion.
- There is no set pattern for developing the process and implementation plan as each county will likely have different challenges to confront. Nonetheless, establishing a Transition Team and providing that team with a charge will get the process going.

And Remember. . .



- This is only the beginning. The changes that are contemplated, discussed, debated and implemented will inevitably:
 - Succeed (and need to be expanded);
 - Fail (and need to be re-worked); or
 - Become Outdated (and need to be updated).
- So the Transition Team becomes the de facto agent of organizational growth and development.

The BRB Creates Personnel Administration Opportunity



- **Personnel Policies**
 - Separate policies from work rules
 - Make management rights management rights
- **Wages**
 - No more lock-step
 - Align specific job responsibilities to wage rates
- **Fringe Benefits**
 - Bring benefits in line with compensation model

Transitional Steps



- 1. Establish An Official Transition Committee.** Designate a transition committee to address the BRB as well as the financial implications of the 2011-2013 budget. The transition committee should be in a position to timely address issues related to: (a) personnel and human resources; (b) finances; and (c) programmatic changes.
- 2. Work Rules And Policies.** Counties should establish work rules and policies which will apply to all employees during the transition period.

Long Term Steps



- **Staffing:** Discussion of concepts such as staff reduction, cross training of employees and establishment of flexible work schedules.
- **Health Insurance Plan Design.** Analysis of choice of carrier, premium contributions, co-pays, deductibles, coinsurance and similar plan design items.
- **Employee Compensation and Benefits.** Review of employee compensation plans which focus on merit and provide employees with fair compensation.
- **Develop Final Work Rules and Employee Policies.** Memorializing long-term personnel policies that fit within management goals for the post-BRB environment.
- **Training.** Develop training for managing in the post-BRB world.
- **Contracting And Collaboration.** Discussion of opportunities to collaborate with other local governments in a cost-effective fashion in providing needed services.

Roles and Responsibilities



- **Role of the employee**
 - The work of municipal government has not gone away and will not go away
 - “Value” will be defined through policy and not through collective bargaining
 - Management needs to be trained in “new world”
- **Policy makers need to embrace a policy governance role**
- **Administrators need to embrace a policy governance role**

“New World” Compensation



- Old System – “Across the Board” wage increases
- **New System** – Merit System
 - Merit is more than performance
 - Increased emphasis on evaluation criteria and process
- Old System – Fringe Benefits accrue with tenure
- **New System** – Fringe Benefits accrue according to process developed in tandem with wage system
- Old System – Wage rates set by rules in CBA
- **New System** – Overall compensation structure driven by goal to attract and retain most qualified candidate
- Old System – Health Insurance bargained and costs absorbed
- **New System** – Health Insurance patterned after policy of setting benefit levels to “attract and retain”

Organizational Challenges



- **Intra-organizational Collaboration**
 - Departmental boundaries fade or disappear
 - Effort to maximize efficiency
 - Example: employees cross-trained in several departments
- **Inter-organizational Collaboration**
 - Local government boundaries fade or disappear
 - Maximize potential to allow different departments to “do what they do best”
 - Example: road crews in one county assist and supplement crews in neighboring counties or other jurisdictions

Important Concepts To Follow



- “Think...do not rely on forms.” This is not a “one size fits all” proposition. Tailor work rules, policies, procedures, compensation and benefits to your county.
- Use the tools as your county sees fit and develop changes and programs for the long run. This is a transitional process.
- Collaborate. Your county is not alone in this process.
 - BRB Consortium—45 counties coming together to address issues posed by the BRB

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