ED-RED Legislative Dinner Workshop:
Successful Collective Bargaining Strategies

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• Introduction – The Effects of the Financial Downturn: Is “Step” Dead?
  – The Step system’s justification.
    • Years of experience = excellence
    • Most schedules reflect some modifications of this concept.
      – Saw-toothed schedules at the bottom to lengthen the schedule for teachers with more education
    • Question: Do schedules with 20+ steps actually correspond to increases teacher performance over time?
• Benefits of a Step schedule for unions
  – “Built-in” pay raises which become the starting point for negotiations.
  – At the ratification stage, “hidden” Step costs allow a union to sell the package to the rank and file by arguing that Step increases are real pay raises which must be considered in evaluating the financial package.
  – A salary schedule with steps usually has limits on the years of previous experience the district may grant. This cap tends to limit the mobility of more veteran teachers who may then be forced to stay at a lower-paying district and fight to improve the scale.
• Benefits of Step to employer – not many
  – Employer is able to downplay the cost of the total package by not including the Step cost.

• Structural disadvantages
  – The cost of Step may commit a disproportionate amount of available dollars to teachers on the schedule. This may leave little or no money to teachers at the bottom of the schedule.
  – Sometimes Step exceeds the amount of available dollars.
• Options when Step is greater than - or only slightly less than - the available Total New Money ("TNM")
• Hard freeze – no Step, no across-the-board increases.

• No across-the-board increases – allow only Step.

  – If Step is only slightly less than the available TNM, teachers at the bottom of the scale will get either no raise or a minimal pay raise.

  – If Step is greater than TNM then

    • All the values on the salary schedule will decrease

    • The starting salaries on the schedule will decrease from year to year
• No Step – allow across the board increases.
  – Straight dollar increases
  – Percentage increases
• Creation of half steps
• Off-schedule, one-time payments
  – Example: $2,200 for each full-time teacher which is not reflected on the salary schedule.
  – Issue: Delivering pay increase in ensuing years on the schedule may be difficult.
Note: Holding employees on Step over time tends to erode the integrity of the schedule. Consider the case of the 5th year teacher who is still on Step 1 vs. the new hire.
• Abandon the Step schedule – establish a salary range.
  
  – Establish a salary range with a base and a top salary. The range may also provide additional pay for –

  • previous years of service
  
  • educational achievement such as a BA, BA+15, MA, MA+15, PhD
• Differentiated schedules based on date of hire.
• Considerations in determining “Total New Money” or “Across the Board” pay increases based on CPI-U.

  – Which CPI-U to use?
    • The then current CPI-U?
    • The “Tax Cap” CPI-U? (18 month lag)
    • Establish maximums and minimums (“not less than x%, not greater than y%”).
• Reopeners

  – Automatic upon an agreed upon event?
  
  – Only upon demand within a time period after a specific event (example: passage of Illinois Pension Reform)?
  
  – Will all the terms of the Collective Bargaining Agreement become open or only select terms, such as pay and insurance?
  
  – Will the no strike clause be reopened?
• Other salary and pay considerations
  – Six percent (6%) retirement increases.
  – Automatic employer pick-up of “full” TRS contributions for employees.

• Slowing horizontal movement
  – Hard freeze
    • Consider how teachers will move when freeze is lifted.
  – Limit one lane per year

• Classified staff.
  – Penalties for failing to provide “Affordable Care” effective January 1, 2014.
Considerations for Local School Districts: Bargaining Pension Benefits in the Land of Fiscal Crisis

• Pending Pension Reform – All the things we know for sure as of January 28, 2013

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Considerations for Local School Districts: Bargaining Pension Benefits in the Land of Fiscal Crisis

• Some Possible “Fixes”
  – Employee Contribution Rate
  – Employer Contribution Rate
  – COLA Increases
  – Salary Cap
  – Retirement Age
  – Choice of Insurance or COLA
Considerations for Local School Districts: Bargaining Pension Benefits in the Land of Fiscal Crisis

• Common Pension Provisions
  – Pick-up of Employee TRS Contributions
  – End-of-Career Salary Increases
  – Post-retirement Severance Payments
  – Payment of Some/All of Employee’s ERO contribution
  – Post-retirement Health Insurance
  – Sick Leave
  – Participation Limits
  – Reopeners, etc.
Considerations for Local School Districts: Bargaining Pension Benefits in the Land of Fiscal Crisis

• Pick-up of Employee TRS Contributions
  – Trends
    • Particularly in the geographical area served by ED-RED, Districts tend not to pick-up Employee TRS Contributions. Pick-up provisions are more common in “downstate” collective bargaining agreements.
  – Cautions
    • For those Districts that have agreed to pick-up Employee TRS Contributions, it is critical to have a cap on the percentage rate of contribution.
Considerations for Local School Districts: Bargaining Pension Benefits in the Land of Fiscal Crisis

• End-of-Career Salary Increases
  – Trends
    • During the last bargaining season, the percentage of salary increase was reduced (e.g., from 6% to 5%), the number of years was shortened (e.g., from 4 to 3 years) and/or the benefit was eliminated altogether or written to sunset upon expiration of the collective bargaining agreement.
  – Cautions
    • Last year, pending legislation was amended to impose a cost on the employer for providing any such benefits.
  – Possible Benefits to District
    • Properly structured, an end-of-career salary increase may help to protect Districts from excess salary contributions resulting from end-of-career lane changes, step increases, new extra-curricular duties, etc.
Considerations for Local School Districts: Bargaining Pension Benefits in the Land of Fiscal Crisis

• Post-Retirement Severance Payments
  – Trends
    • At the bargaining table, many post-retirement severance payments were reduced or eliminated.
  – Cautions
    • There may be tax implications if not properly structured.
    • It is important to specify when the teacher vests in the right to receive this benefit, e.g., are beneficiaries entitled to the post-retirement severance payment in case the teacher dies? Or, is the teacher entitled to the payment if he/she is dismissed before the anticipated date of retirement?
Considerations for Local School Districts: Bargaining Pension Benefits in the Land of Fiscal Crisis

- Payment of Some/All of Employee ERO Contributions
  - Trends
    - Although fewer Districts promise to pay for some or all of the Employee’s share of ERO contributions, many collective bargaining agreements still provide some benefit.
  - Cautions
    - If the General Assembly votes to extend ERO past June 30, 2013, both the Employee’s and the Employer’s contribution rates will increase significantly.
Considerations for Local School Districts: Bargaining Pension Benefits in the Land of Fiscal Crisis

• Post-retirement Health Insurance
  – Trends
    • In the current economic climate, few Districts are interested in adding new retiree health insurance provisions to their collective bargaining agreement. Rather than allow retirees to maintain coverage in the District’s plan, some Districts contribute toward the cost of the retiree’s TRIP insurance.
  – Cautions
    • There is still uncertainty concerning what impact the Affordable Care Act will have on insurance benefits. Districts that promise retirees continued enrollment in their plan should be certain their insurance carrier will allow such continued enrollment.
Considerations for Local School Districts: Bargaining Pension Benefits in the Land of Fiscal Crisis

• Sick Leave
  – Trends
    • There were few changes related to the use of sick leave for service credit or creditable earnings. However, some agreements still include unused sick leave buyback provisions.
  – Cautions
    • Unused, uncompensated sick leave days may be used by a teacher to obtain additional service credit from TRS, or may be “sold back” to the District to increase the teacher’s reportable creditable earnings to TRS, but may not be used for both. Also, take care to ensure any buyback doesn’t result in excess salary contributions for the District.
Considerations for Local School Districts: Bargaining Pension Benefits in the Land of Fiscal Crisis

• Participation Limits
  – Trends
    • A few Districts include contract language limiting the number or percentage of teachers who can participate, in any given year, in end-of-career salary increases.
    • Many Districts limit the percentage of teachers who can elect to retire under the Early Retirement Option ("ERO").
  – Cautions
    • Always consider the demographics of the District’s bargaining unit – a significant number of teachers receiving 6% pay increases at the same time can be very costly.
Considerations for Local School Districts: Bargaining Pension Benefits in the Land of Fiscal Crisis

• Reopeners, Etc.
  – Trends
    • Some Districts sought protection from unknown pension fixes by including language allowing the Board to reopen the economic provisions of the agreement if certain conditions were met.
  – Cautions
    • A reopener could potentially have a negative impact on a collective bargaining agreement’s “grandfathered status.”
Considerations for Local School Districts: Bargaining Pension Benefits in the Land of Fiscal Crisis

• **End-of-career salary increases for support staff: A Word from IMRF**

• Legislation passed by the General Assembly in 2011, requires employers to make an immediate “accelerated payment” of the actuarial cost of a pension that results from salary increases exceeding the greater of 6% or 1.5 times the increase in the Consumer Price Index. This is not a penalty but an *early payment* of the employer’s actuarial liability.

• **There are six exemptions from accelerated payment requirements:**
  • Earnings increases paid under contracts or collective bargaining agreements entered into, amended, or renewed prior to January 1, 2012
  • Overtime earnings
  • Increased earnings from increases in hours required to be worked
  • Earnings increases due to standard employment promotion resulting from increased responsibility and workload
  • Raises paid to members who are 10 years or more from retirement eligibility
  • Raises paid under personnel policies adopted prior to January 1, 2012; and which are not applicable to employees hired on or after January 1, 2012
Considerations for Local School Districts: Health Insurance
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• Health Insurance
  – Insurance committees
  – Need flexibility to make plan design changes
    • Annual increase above certain level triggers committee to agree to plan design changes
  – Wellness programs
  – Retiree insurance benefits
Considerations for Local School Districts: The Affordable Care Act

• Health Care Reform – “Pay or Play”
  – No requirement to provide health insurance
  – ACA imposes a tax on employers:
    • If they don’t offer coverage to substantially all of their full-time employees, or
    • If the coverage fails to meet certain conditions
Affordable Care Act – “Pay or Play”

• Applies to employers with 50 or more full-time employees (including all FTEs).

• Applies beginning January 1, 2014, but transitional relief applies to employers with non-calendar year group health plans.
Affordable Care Act – “Pay or Play”

• Failure to Offer Coverage = “Headcount Tax”
  – If you fail to offer coverage to “substantially all” of your full-time employees (and, beginning in 2015, their dependent children) you are assessed a “headcount tax” of $2,000 per year for each full-time employee
Affordable Care Act – “Pay or Play”

• Who are “full-time employees:”
  – Individuals who work, on average, at least 30 hours per week
  – Special rule for educational employers: “employment break periods” (i.e., summer break and other periods of at least 4 consecutive weeks in which no services are performed) cannot be used to decrease the average hours worked

• What does “substantially all” mean:
  – 95% of full-time employees
Affordable Care Act – “Pay or Play”

• Individualized Tax: Offered Coverage Fails to Meet ACA Conditions
  • If you offer coverage to substantially all of your full-time employees (and, beginning in 2015, their dependent children)
  • but that coverage is either unaffordable OR that coverage doesn’t provide minimum value
  • AND a full-time employee opts out of your coverage
  • AND that full-time employee is eligible for a premium tax credit
  • you are assessed an individual tax of $3,000 per year for each such full-time employee receiving a premium tax credit
Affordable Care Act – “Pay or Play”

• Bargaining Issues to Consider
  – Contractual work day and week
  – Hours needed to be eligible for insurance
  – Employee groups ineligible for insurance
  – Whether your plan offers minimum value
  – Safeguards to ensure your plan is affordable
  – Adding a compliant plan
Q&A
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