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The purpose of the essay is to analyze and discuss the pros and cons of conventional impasse resolution techniques employed in the public sector: Mediation, factfinding, and arbrtration. Author begins with a discussion background information which highlights the importance of the subject. He follows with a discussion of the Civil Service Reform Act of 1978. Finally he focuses on the main part of the essay, the analysis and discussion of the three resolution techniques.

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United States Army War College

# UNDERSTANDING DISPUTE RESOLUTION TECHNIQUES--A KEY TO EFFECTIVE FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS: A PRIMER FOR MILITARY COMMANDERS, MANAGEMENT OFFICIALS AND SUPERVISORS



by

LTC Edward S. Broderick




Individual Research Based Essay

April 1982

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## Chapter 1

## INTRODUCTION

Impasse or dispute resolution is something very old but also very new in the myraid of processes and structures involved in the complex and multi-dimensional workings of American institutions. Gerald Pops correctly pointed out that for centuries established in the nonpublic life of western society, it has only recently been applied to the resolution of public employment disputes. Its appearance in the public sector coincides with the emerging recognition by American government--at all levels--of the right of public employees to bargain collectively.[1]

The basic objective of this research paper is as the title suggests to determine, analyze and discuss the various pros and cons of conventional impasse resolution techniques. I will focus primarily on the three broad categories of dispute resolution options generally employed in the public sector, those being mediation, fact-finding and arbitration.[2] To put this topic in proper perspective and logical order, I will first comment on the emergence of the public sector conflict and views on strikes, which are in reality the bottom line reason for the development of dispute resolution. This will be followed by a limited discussion of the Civil Service Reform Act of 1978 which provides the legal foundation for the operations of the

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[1] Gerald M. Pops, Emergence of the Public Sector Arbitrator, (Massachusetts: Lexington Books, 1976), p. 3.

[2] Alan E. Bent and T. Zane Reeves, Collective Bargaining in the Public Sector, (California: The Benjamin/Cummings Publishing Company, Inc., 1978), p. 242.

Federal labor-management relations program. A defining and discussion of each of the above mentioned conventional dispute resolution techniques together with their identified pros and cons will conclude the paper.

## Chapter 2

## THE BEGINNING OF CONFLICT IN THE PUBLIC SECTOR

For many years public employees were satisfied with merit systems and the job security assured by state and civil service commissions. These viewed protections and the higher prestige accompanying public sector employment discouraged comparison with the private sector. However in the 1960's there began an upheaval by public employees.

The reasons for these stirrings were described by that experienced Boston mediator and arbitrator Arnold M. Zack. First, expanding demand of public service brought about a dramatic increase on public employment without a comparable rise in public income. Second, public employees finally began to question their exclusion from the 1935 protections afforded private employees by the National Labor Relations Act. Third, a young, militant, influx of largely male personnel sought to mobilize the public sector and seek benefits achieved by private sector employees. Fourth, the traditional grants of prevailing wages extended to government-employed construction workers and others under the federal and state Davis-Bacon type laws stirred the desire of noncovered public employees to achieve wages and working conditions matching those in the private sector. Fifth, private sector trade unions, began to organize state and local employees. Sixth, Kennedy's Executive Order 10988, which granted limited collective bargaining rights to federal employees, was interpreted by state and local government employees as a mandate for protesting the historical denial of such rights on the state and local level. Seventh, the rising civil disobedience in the country, as demonstrated by civil rights, draft,

anti-poverty and war protestors, convinced militant public employees that such protests against "the establishment" was fruitful and could be a vehicle to bring about change. Finally he says, the demonstrated success of illegal strikes such as the New York transit strike became substantive proof that the power to strike was of far greater relivance than the right to strike.[3]

In the period since 1966 the public sector strike, although illegal, has come to be an increasing reality in the life of the citizen and the life of the community. The public, however, has since overcome its initial fear of the public employee strike and learned to adapt. This adaptation also reflects, as mentioned earlier, our tolerance of growing civil disobedience and our ability to adapt to various forms of disruption.[4]

Has the use of the strike been wide spread? Are they significant? Have they affected our economy, our productivity? What can we do? As Figure 1 indicates, during the period from 1967 to 1975 there were in the United States a total of 47,622 strikes or work stoppages as they are commonly referred to by the Bureau of Labor Statistics. These same work stoppages were of an average duration of 24.85 days and involved a working force of just over 23 million men and women.[5]

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[3]Arnold M. Zack, "Impasses, Strikes and Resolutions," Public Workers and Public Unions, ed. Sam Zagoria (New Jersey: Prentice-Hall, Inc., 1972), pp. 101-102.

[4]Ibid., p. 103.

[5]U.S., Department of Labor, Bureau of Labor Statistics, Handbook of Labor Statistics, 1977, Bulletin 1966, Washington: Government Printing Office, 1977, p. 294.

Figure 1

**Work Stoppages in the United States, 1967-75**[6]

| Year | Stoppages beginning in year | | | | Days idle during year | | | |
|---|---|---|---|---|---|---|---|---|
| | Number | Average duration (calendar days)[2] | Workers involved[1] | | Number (thousands) | Percent of estimated calendar working time | | Per worker involved |
| | | | Number (thousands) | Percent | | Total economy | Private nonagricultural | |
| 1967 | 4 595 | 22 8 | 2.870 | 4 3 | 42 100 | 0 25 | 0 30 | 14 7 |
| 1968 | 5.045 | 24 5 | 2.649 | 3 8 | 49 018 | 28 | 32 | 18 5 |
| 1969 | 5.700 | 22 5 | 2.481 | 3 5 | 42.869 | 24 | 28 | 17 3 |
| 1970 | 5.716 | 25 0 | 3.305 | 4 7 | 66 414 | 37 | 44 | 20 1 |
| 1971 | 5.138 | 27 0 | 3.280 | 4 6 | 47 589 | 26 | 32 | 14 5 |
| 1972 | 5.010 | 24 0 | 1.714 | 2 3 | 27.063 | 15 | 17 | 15 8 |
| 1973 | 5 353 | 24 0 | 2.251 | 2 9 | 27.948 | 14 | 16 | 12 4 |
| 1974 | 6 074 | 27 1 | 2.778 | 3 5 | 47 991 | 24 | 24 | 17 3 |
| 1975 | 5.033 | 25 8 | 1.746 | 2 2 | 31.237 | .16 | 16 | 17 9 |
| 1974 | | | | | | | | |
| January | 379 | | 109.2 | | 1.362 9 | 08 | | |
| February | 377 | | 126 5 | | 1.370 1 | .09 | | |
| March | 484 | | 1[illegible] 9 | | 2 118 6 | 13 | | |
| April | 601 | | 1.[illegible] 6 | | 2.944 8 | 17 | | |
| May | 795 | | 604 6 | | 6 050 4 | 34 | | |
| June | 677 | | 488 1 | | 6 542 1 | 43 | | |
| July | 683 | | 364 0 | | 8.953 8 | 51 | | |
| August | 509 | | 250 5 | | 5 881 8 | 33 | | |
| September | 514 | | 187 5 | | 3 027 5 | 19 | | |
| October | 513 | | 165 5 | | 2 854 2 | 17 | | |
| November | 353 | | 250 9 | | 3 807 4 | 24 | | |
| December | 183 | | 103 5 | | 2.678 9 | 16 | | |
| 1975 | | | | | | | | |
| January | 340 | | 132 3 | | 1 604 9 | 09 | | |
| February | 339 | | 108 6 | | 1.557 3 | 11 | | |
| March | 375 | | 100 9 | | 1.774 3 | 11 | | |
| April | 491 | | 131 3 | | 2.177 0 | 13 | | |
| May | 555 | | 186 6 | | 3.319 0 | 20 | | |
| June | 533 | | 174 3 | | 3.352 0 | 20 | | |
| July | 518 | | 230 8 | | 4 464 5 | 26 | | |
| August | 420 | | 171.7 | | 3.376 7 | 20 | | |
| September | 495 | | 216 8 | | 3 683 8 | 22 | | |
| October | 426 | | 143 4 | | 2.327 0 | 14 | | |
| November | 330 | | 62 8 | | 1 736 6 | 11 | | |
| December | 239 | | 85 1 | | 1.853 7 | 11 | | |

[1] In these tables, workers are counted more than once if they were involved in more than 1 stoppage during the year.

[2] Figures are simple averages; each stoppage is given equal weight regardless of its size.

I have also added as Appendixes A and B, additional Tables that will give the reader a great depth of perspective to the magnitude of work stoppages in the United States. For the sake of brevity I have included only the year 1975. Appendix A summarizes work stoppages by major issues.

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[6] Ibid.

Of the ten major categories of issues listed the overall predominant reason for dispute was general wage changes.[7] Appendix B summarizes work stoppages by industry group.[8]

The public sector is now the most highly charged arena of labor-management conflict. Militant public employee unions are the fastest-growing part of organized labor; their membership grew b 531,000 between 1976 and 1978 as membership in manufacturing unions declined by 447,000.[9] At Appendix C is a list of unions that represent Federal employees.

An increasing number of unions and employee associations in public service are reexamining the use of strikes to resolve contract disputes. Anne Ross stated that, "for many years, government employee unions voluntarily included no-strike pledges in their constitutions or operated under long standing resolutions condemning strikes. However, at their 1968 conventions, two postal unions, the Fire Fighters, and the National Association of Government Employees deleted their no-strike clauses."[10] Arguments opposing public strikes usually stress two points: First, the government provides essential services which must not be interrupted; and second, strikes should not be permitted against a sovereign body.

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[7] Ibid., p. 305.

[8] Ibid., p. 310.

[9] Editorial, The Wall Street Journal, May 13, 1980, p. 24, Col. 1.

[10] Anne M. Ross, "Union Attitudes on Strikes," Collective Bargaining For Public Employees, ed. Herbert L. Marx, Jr., (New York: The H. W. Wilson Co., 1969), p. 86.

Governor Calvin Coolidge in 1919 presented the classical formulation of the view that government services are traditionally considered essential: "There is no right to strike against the public safety by any body, anywhere, at any time."[11]

Without a right to strike, public employee unions claim there is no lever to pressure public officials to negotiate in good faith. William Buck, former President of the International Association of Fire Fighters, asserted that some public managers, knowing that public employees have generally renounced the right to strike, have bargained in bad faith. Without a right to strike, employee unions believe that government workers should have the right to use the same tactics available to workers in private industry, since they have the same interest in improving wages and working conditions.[12]

Strikes are a complex phenomenon whose character, causes and effects are difficult to assess and whose incidence is hard to predict or control. Historically, they have been undertaken primarily as a means of bringing pressure to bear on an employer to redress particular grievances. In practice, they are a challenge not only to the authority of the employer but on occasion to the union leadership and increasingly, as the public has come to be more involved in economic matters, to the state itself.[13]

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[11] Ibid., p. 88.

[12] Ibid., p. 89.

[13] "Labor Relations: Strikes," International Encyclopedia of the Social Sciences, 1968, Vol. 8, p. 505.

According to D. S. Chauhan the introduction and stimulation of collective bargaining in the public sector has created a "pattern of expectations and interaction at times characterized by disharmony, conflicting demands, and disruption of essential services to the community." He also correctly pointed out that, from the viewpoint of the public it is of no consequence which side is in the right, "if a strike occurs, the public suffers from the lack of some essential services."[14]

At this juncture a final note on strikes is relevant. Several strike trends upon which there is "relative consensus" have been noted by Bent and Reeves:

1. Strikes show no sign of declining.

2. "Neither legislative prohibition nor judicial injunction has proven an effective deterrent to public employee strikes."

3. "Strikes occur most frequently at a governmental level (local) that is most vulnerable, frequently over issues that are resolvable by effective collective bargaining."

4. "Strike action is but the most dramatic means of resolving impasse resolution; it is too frequently considered the only means. Perhaps, the strike should only be emphasized as an ultimate solution after all other techniques of dispute resolution have failed."[15]

Personnel management of civilian employees of the Department of the Army is the direct responsibility of installation/activity commanders and managers. Local commanders are accountable up the line for the effective management of the civilian component. To ensure maximum effectiveness, key supervisory military officials are expected to recognize the special

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[14] D. S. Chauhan, "The Political and Legal Issues of Binding Arbitration in Government," Monthly Labor Review, (September, 1979), 35.

[15] Bent and Reeves, op. cit., p. 241.

features and policies governing civilian personnel management. Some of these features diverge sharply from military personnel practices and require different approaches.

In this regard the cornerstone document for the military manager is Public Law 95-454 that is usually cited by its short title as the "Civil Service Reform Act." On 13 October 1978 President Carter signed the Act which is designed to improve government efficiency and to balance management authority with employee protections. Among the major features of the Act are an independent and equitable appeals process; protections against abuse of the merit system; and incentives for good work and skilled management.

The Act further instituted several organizational changes. It dissolved the Civil Service Commission and created the Office of Personnel Management (OPM); Merit System Protection Board (MSPB); and the Federal Labor Relations Authority (FLRA).

The Act is divided into nine sections or titles. For this paper, however, I will limit my discussion to the provisions of Title VII--Federal Service Labor-Management Relations (5 USC Chapter 71). The general provisions of Title VII point out that "experience in both private and public employment indicates that the statutory protection of the right of employees to organize, bargain collectively and participate through labor organizations of their own choosing in decisions which affect them--

(A) safeguards the public interest.

(B) contributes to the effective conduct of public business and

(C) facilitates and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment."[16]

Appendix D provides a more detailed summary of the labor-management relations provisions of Title VII.

In establishing the Federal Labor Relations Authority to oversee Federal labor-management policies the Civil Service Reform Act empowered the FLRA to:

- o Determine appropriate bargaining units.
- o Supervise representation elections.
- o Investigate complaints of unfair labor practices.
- o Pesolve impasses.

When a Federal agency and an employee union reach an impasse in bargaining, either party may request assistance from the Federal Mediation and Conciliation Service (FMCS). This is the first step in resolving an impasse under Title VII. The FMCS assists the parties in attempting to reach a voluntary agreement. If the dispute is not resolved at mediation, either the FMCS mediator or one or both of the parties may request the assistance of the Federal Service Impasses Panel (FSIP). At this next step the Panel has authority to take action it considers necessary to resolve negotiation impasses. The process is used in lieu of strikes.

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[16]Civil Service Reform Act of 1978, United States Code, Congressional and Administrative News, 95th Congress, 2d Session, 1978, Vol. 1, (St. Paul, Minnesota: West Publishing Company), p. 1192.

## Chapter 3

## MEDIATION, FACT-FINDING AND ARBITRATION

The expansion of collective bargaining in the public sector has brought with it a more structured relationship between the employer and the employee organizations. This, in turn, has stimulated the development of procedures to resolve disputes arising between the parties in the formulation of their new agreements or contracts as well as disputes arising during the life of those agreements over their interpretation and employment.[17]

In an effort to assure that public sector employees are provided with reasonable and acceptable wages, hours and working conditions without need to resort to the strike, public sector collective bargaining legislation usually provides that the outstanding differences between the parties over terms and conditions of employment should be subject to review and determination by an experienced, objective, and neutral party (or parties). But the expectation that such determination would be accepted by employees as a viable substitute for the strike has not always been borne out by experience. Employees and their organizations have resorted to outright strikes, wild cats, slowdowns and other pressures to exert a force comparable to the economic confrontation proven effective in the private sector.[18]

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[17] U.S., Department of Labor, Labor-Management Services Administration, Understanding Grievance Arbitration in the Public Sector, Washington: Government Printing Office, 1980, p. 1.

[18] U.S., Department of Labor, Labor-Management Services Administration, Understanding Fact Finding and Arbitration in the Public Sector, Washington: Government Printing Office, 1980, p. 6.

The objective of dispute or impasse resolution is the same--to prevent a strike. It is more desirable for public employees and the public in general if an impasse dispute can be resolved through negotiation rather than by attempting resolution in the sometimes hostile environment of "work stoppage or management retaliation".[19]

Mediation, fact-finding and arbitration have generally proved to be adequate devices for the resolution of impasses. Arnold Zack agrees that usually, these methods "have convinced over-reaching employees that their demands are excessive and/or convinced the parsimonious employer that its proposals are inadequate as a proper reward to its employees."[20]

Before I begin my detailed discussion of each of the above mentioned conventional impasse steps I think it necessary to quickly highlight the practice and the most desirable format for the settlement of disputes, that of direct negotiation.[21] This is face-to-face discussion between adversary parties for the purpose of reaching an agreement on any matter or item in dispute between them. It is normally conducted without any third party or mediator present. It is also reasonable to assume that if an agreement is to be workable, it must come directly from the partners to the relationship. Direct negotiation will probably or should be repeated at those other instances in the impasse procedure as the parties believe are needed to resolve their differences.[22]

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[19] Bent and Reeves, Collective Bargaining in the Public Sector, loc. cit.

[20] U.S., Department of Labor, Understanding Fact Finding and Arbitration in the Public Sector, loc. cit.

[21] Zack, Public Workers and Public Unions, op. cit., p. 106.

[22] U.S., Department of Labor, Understanding Fact Finding and Arbitration in the Public Sector, op. cit., pp. 1-2.

Direct negotiation may be hindered or precluded by a number of factors. Hostility, inexperience, or emtional involvement by one or both of the parties could make it impossible to adjust its position to accommodate the other side. Also either party could escalate the dispute by failing to react to a sign or clue from the other or to judge correctly the consequences of escalating the dispute beyond the point of direct negotiations.[23] Zack states further that, "possibility of failure is universal in negotiations . . . not only because of the somewhat reduced likelihood of the strike, in the public sector but also because of the ready availability of an increasingly long ladder of appeal devices."[24] In other words, because other steps are available there could be a possibility that third party intervention may exact a "little bit more" than could be achieved through voluntary settlement.[25]

## Mediation

In his article concerning mediation in the industrial community and public sector, Paul Yager asserts that parties to a dispute usually are seeking a workable solution to their problems. To accomplish this their attention must be directed toward that end and a conducive environment established. He says, "the forum created by the mediator is just such an environment and the mediator himself is a symbol of the problem solving procedure."[26]

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[23] Zack, loc. cit.

[24] Ibid.

[25] Ibid., p. 107.

[26] Yager, Paul, "Mediation: A Conflict Resolution Technique In The Industrial Community and Public Sector," New Techniques In Labor Dispute Resolution, ed. Howard J. Anderson, (Washington: The Bureau of National Affairs, Inc., 1976), p. 124.

Mediation or conciliation, terms used synonymously, is a diplomatic procedure where a third party, called the mediator acting as intermediary comes in to assist the adversary parties with their negotiations and hopefully settle the controversy through voluntary agreement.[27] In joint or separate sessions with the parties the mediator, presumably maintaining the confidence of both sides aims to narrow the differences between the parties until all are settled.[28] A mediator normally will withdraw from proceedings when (1) an agreement is reached, (2) one of the parties requests such withdrawal, (3) the agreed upon time comes for appeal to the next step in the impasse procedure, or (4) the mediator's effectiveness or acceptability is exhausted.[29] The mediator does not determine the rights or wrongs of the problem rather his mission is to help search out a satisfactory solution.

My research indicates that mediation has become accepted in the public sector as an effective means of resolving disputes. Success, however, depends to a great degree on the parties themselves and their earnestness to be accessible, candid, undisguised and to use an old but still meaningful saying, "fair and square." Mediation can be a particularly timely method in continuing a bogged-down collective bargaining process or it may improve communications between "intrenched adversaries." It also may furnish the invaluable outlook of a neutral

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[27] "Labor Relations: Settlement of Industrial Disputes," International Encyclopedia of the Social Sciences, 1968, Vol. 8, p. 507.

[28] Zack, op. cit., p. 107.

[29] U.S., Department of Labor, Understanding Fact Finding and Arbitration in the Public Sector, op. cit., p. 2.

and trusted counselor.[30] Parties frequently resign themselves to mediation where they would be unwilling to empower an outsider to make a binding decision. In addition since the final decision remains ultimately with the parties they can't criticize that their collective bargaining freedom has been impaired or that they have been coerced into or tethered to a compact that is unacceptable to them.[31]

Mediation is, however, limited in its use as a dispute resolution technique. The mediator has no power to compel and therefore the parties may accept his recommendation, use it as the basis for some other settlement or reject it outright. It is also unlikely that successful resolution will take place if either of the parties retains hidden agenda items or attempts to undermine the mediator. Timing of the impasse technique is also crucial since mediation has a greater likelihood of success if used prior to the parties positions having become incompatible. As a final note Hinman cautions that mediation or other techniques for that matter should not be used when it would "allow the opposition to delay or avoid what may be an imminent settlement."[32]

## Fact Finding

Fact finding has come to be accepted as yet another appeal or dispute technique beyond mediation and "possibly" an available means for

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[30] Bent and Reeves, Collective Bargaining is the Public Sector, op. cit., p. 245.

[31] "Labor Relations: Settlement of Industrial Disputes," International Encyclopedia of the Social Sciences, loc. cit.

[32] Bent and Reeves, op. cit., pp. 245-246.

some parties to get their "extra piece of the pie." It has its origins in the high public interest segments of public utilities and transportation.

Fact finding is a procedure where a neutral (or neutrals) called a fact finder or in some cases a fact finding panel conducts a hearing at which the opposing parties define the issues in dispute and offer their proposed recommendations with supporting evidence and arguments. After the hearing the fact finder(s) makes his recommendations for a solution, usually in writing.[33]

The key, of course, as with other forms of resolution techniques is that the above cited recommendations will be sanctioned and the impasse will be concluded. The recommendations in fact finding are not binding and the parties can accept or reject them. If the latter course of action is opted for the parties may use the report for further negotiation.

Bent and Reeves point out the theory of fact finding is that if the "findings and subsequent recommendations of the fact finder are well reasoned, they will be persuasive and accepted in whole or, at least in part."[34]

Fact finding when utilized provides a measure of finality to the negotiating process which in the public sector have a tendency to be rather lengthy. It introduces a "deadline" which can also mean that parties can return to their own job pursuits. Fact finding also tends to dispose of issues on which parties in direct negotiation are unable to reach agreement. A new viewpoint of the disputed items presented objectively may overcome

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[33]U.S., Department of Labor, Understanding Fact Finding and Arbitration in the Public Sector, op. cit., p. 2.

[34]Bent and Reeves, op. cit., p. 248.

resistance and constitute the foundation for renewed negotiation and or settlement. The fact finders report can also get the negotiating parties "off the hook" through denial of potentially embarrassing low priority demands created by internal pressure groups. There is also the advantage that a fact finders report could call public attention to the parties dispute and the proposal for resolving it.[35] The other side-of-the-coin to that premise is suggested by William R. Word, he found that a number of parties desired to negotiate privately rather than submit to the publicity accompanying the fact finders report.[36]

Fact finding does not guarantee the reestablishment of labor-management relations harmony. As previously pointed out, the fact finders report is strictly advisory in nature and therefore it can be repudiated. With their inability to bind recommendations they must place extensive (if not excessive) emphasis on acceptability as distinguished from equity. A final argument against the fact finding technique may be that a report which recommends specific dispositions of disputed issues dead locks the parties by creating a vested interest for the successful proponents of those issues.[37]

## Arbitration

The last dispute resolution technique that will be offered for discussion in this paper is arbitration. Arbitration is not only the

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[35] U.S., Department of Labor, Understanding Fact Finding and Arbitration in the Public Sector, op. cit., pp. 8-11.

[36] William R. Word, "Fact Finding in Public Employee Negotiations," Monthly Labor Review, 95, (September, 1975), 63.

[37] U.S., Department of Labor, Understanding Fact Finding and Arbitration in the Public Sector, op. cit., pp. 12-13.

most multiform of the three conventional impasse procedures but the most controversial.

Arbitration is a legal technique for resolving disputes by referring them to a third party for a binding decision, or "award" as the arbitrator's findings are usually described. The arbitrator may be one person or an arbitration board, normally constituted with three members.[38]

Arbitration is usually categorized in three forms, compulsory, voluntary and final offer. It is of a compulsory nature when mandated by law, regulation and/or executive order and is binding upon the parties even though one of them is unwilling to comply.[39]

Arbitration is voluntary when the parties undertake this method of their own volition, jointly select the arbitrator and agree to comply with his decision. Voluntarism could be the result of a statute which permits, rather than requires, the parties to submit disputed issues to binding arbitration on their own initiative. Voluntary arbitration may also come from the parties own initiative with regard to future contract impasses and in accordance with a permanent negotiation procedure.[40]

Final offer selection or "one-or-the-other" arbitration restricts the arbitrator to select the last offer of one of the parties. In theory such a procedure will encourage positive negotiation with the final offer of each designed to appeal as more reasonable than the other.[41] In this

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[38]"Arbitration," The New Encyclopaedia Britannica (15th ed.), 1, 1076.

[39]U.S., Department of Labor, Understanding Fact Finding and Arbitration in the Public Sector, op. cit., p. 3.

[40]Ibid.

[41]Ibid.

paper I will limit further discussion of arbitration to compulsory or voluntary only.

Arbitration is utilized in two types of dispute negotiations: grievance or rights arbitration which deals with existing collective bargaining contracts, or stated differently, disputes which surface between the parties after the contract terms are settled, involving interpretation and/or application of such contracts, and interest arbitration which is concerned with the interests of both parties in achieving mutually acceptable terms and conditions of employment (new contract terms).[42]

Why compulsory arbitration? Joseph Loewenberg answers that question. He reminds us that public policy does not in general permit strikes particularly in those sectors that are viewed as critical to public safety. How then are those public employees provided a strong collective bargaining mechanism while prohibiting them the right to strike. He states that a clear cut terminal procedure is afforded by compulsory arbitration.[43] Loewenberg cites another reason, that being the readiness of the "public safety personnel" to accept arbitration as an adequate quid pro quo for not striking.[44] At Appendix C has been included a table that lists those states which had by 1975 provided for compulsory arbitration for their public employees.

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[42] Bent and Reeves, op. cit., pp. 248-249.

[43] J. Joseph Loewenberg, "Compulsory Arbitration in the United States," Compulsory Arbitration, ed. J. J. Loewenberg and others (Massachusetts: D. C. Heath and Co., 1976), p. 152.

[44] Ibid.

More than 90 percent of the collective bargaining agreements in this country provide for arbitration as a last step in the grievance procedure.[45]

Neil Chamberlain's comments are appropriate at this juncture:

> "The grievance procedure is to most unionists the heart of collective bargaining. Any gripe over treatment can have its outlet in a recognized process in which his union representative takes the matter up with his supervisor . . . if these discussions fail, the union may demand other impasse resolution measures. For John Jones, the man at the bench, the grievance process is the subjects right to dispute the king."[46]

Loewenberg indicates that the majority of analysts and participants have been satisfied with arbitration, that arbitrators have not stripped the rights and authority from management and that strikes are almost nonexistent by employees covered by compulsory arbitration legislation.[47]

What are the pros and cons for the use of arbitration as the last step in the dispute procedure in the public sector?

Arbitration as with fact finding provides a dimension of finality to the negotiation process. The availability of this procedure presents a terminal point or deadline. Arbitration can also resolve insoluble issues. Presumably the neutral party will have had enough practical knowledge in comparable situations to promulgate findings that will overcome the resistance to settlement. Arbitration can also deny low priority bargaining demands that clutter the negotiation process and place the emphasis of serious discussion on vital core issues. Binding arbitration

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[45] "Arbitration," The New Encyclopedia Britannica, op. cit., p. 1076.

[46] Neil W. Chamberlain, Source Book on Labor, (New York: McGraw-Hill, Inc., 1958), p. 631.

[47] J. Joseph Loewenberg, op. cit., p. 166.

as an end-of-the-line procedure may prompt serious mediation and dispute resolutions. In that regard since there is no further impasse machinery the mediation opportunity at this stage may be of significant value since there is no reason for parties to wait or hold-on for a better deal.[48]

Other advantages of arbitration particularly in regard to grievance resolution are noted for consideration. For one, arbitration is more expeditious and efficient than resort to the courts. The "normal" time span from filing to award is seldom more than six months. Such settlement time is highly doubtful in the already overcrowded courts. Arbitration is less expensive than the courts, less formal, and can be tailored to meet the parties needs. Arbitration by experts in the field usually affords a more practical resolution than decision by judges who may not be familiar with the "in's and out's" of labor management relations.[49] Arbitration also provides for final decision by an individual designated by the joint action of the parties thereby usually increasing decision acceptability.

Arbitration also has its limitations and/or disadvantages. Although awards are presumably final and binding, there is a body of experience which contends that dissatisfaction by either party may preclude complete compliance with the award terms.[50] It can exert extreme pressure on one of the parties to capitulate on grievances rather than be "arbitrated to death" in terms of cost or time expenditures.[51] R. Theodore Clark in

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[48] U.S., Department of Labor, Understanding Fact Finding and Arbitration in the Public Sector, op. cit., pp. 8-12.

[49] U.S., Department of Labor, Understanding Grievance Arbitration in the Public Sector, op. cit., pp. 6-7.

[50] U.S., Department of Labor, Understanding Fact Finding and Arbitration in the Public Sector, op. cit., p. 12.

[51] U.S., Department of Labor, Understanding Grievance Arbitration in the Public Sector, op. cit., pp. 8-9.

an early article said that compulsory arbitration is a poor substitute for direct negotiation and collective bargaining since parties often do not try to reach agreement on their own, proceed to arbitration and tend to make unreasonable demands.[52]

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[52] R. Theodore Clark, Jr., "Public Employee Strikes: Some Proposed Solutions," Labor Law Journal, (February, 1972), 118.

## Chapter 4

## CONCLUSION

The forums of direct negotiation and mediation which are the fore runners in the dispute/impasse resolution arena to fact finding and arbitration are in my opinion the work-places where serious labor-management parties should attempt to resolve their differences.

For years most of the states that allow public employees to gain unions and bargain collectively have managed to avoid epidemics of crippling strikes by requiring dispute resolution techniques whenever union and management negotiators reach an impasse. Mediation, fact finding and arbitration have generally proved to be adequate in such instances.

The continued experimentation by legislatures and by the parties themselves with methods directed toward the improvement of the mediation, fact finding and arbitration procedures will hopefully lead to a greater occurrence of successful dispute resolution in the public sector.

The purpose of this paper has been to describe in brief form, major features of dispute/impasse resolution technique. It was written primarily for key military officials whose responsibilities include the management and supervision of civilians.

Newly assigned commanders and military managers should further consult with their civilian personnel office staff, the Federal Personnel Manual (FPM) and the Army and civilian personnel regulations for additional information and advice in the field of collective bargaining.

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APPENDIX A

## Work Stoppages, by Major Issues, 1967-75—Continued

| Major issue | Stoppages beginning in 1975 | | | | Days idle during 1975 (all stoppages) | |
|---|---|---|---|---|---|---|
| | Number | Percent | Workers involved | | | |
| | | | Number (thousands) | Percent | Number (thousands) | Percent |
| All issues | 5,031 | 100.0 | 1,745.8 | 100.0 | 31,237.0 | 100.0 |
| General wage changes | 2,619 | 52.1 | 810.4 | 46.4 | 22,221.7 | 71.1 |
| General wage increase | 936 | 18.6 | 287.5 | 16.5 | 6,024.0 | 19.3 |
| General wage increase plus supplementary benefits | 1,111 | 22.1 | 317.9 | 18.2 | 10,776.3 | 34.5 |
| General wage increase, then decrease | 6 | .1 | 7 | (*) | 10.4 | (*) |
| General wage decrease | 1 | (*) | 1 | (*) | 1 | (*) |
| Escalation (cost-of-living increase) | 35 | .8 | 8.8 | .5 | 224.8 | .7 |
| General wage increase and escalation | 294 | 5.0 | 55.8 | 3.2 | 2,018.3 | 6.5 |
| Wages and working conditions | 270 | 5.4 | 135.7 | 8.0 | 3,165.7 | 10.1 |
| Supplementary benefits | 53 | 1.1 | 23.0 | 1.3 | 277.8 | .9 |
| Pensions, insurance, and other welfare programs | 29 | .6 | 18.1 | 1.0 | 188.8 | .6 |
| Severance or dismissal pay, other payments on layoff or separation | 5 | .1 | 1.4 | .1 | 18.4 | .1 |
| Premium pay | 4 | .1 | .6 | (*) | 16.5 | .1 |
| Other | 15 | .3 | 2.9 | .2 | 56.2 | .2 |
| Wage adjustments | 126 | 2.5 | 33.5 | 2.2 | 354.3 | 1.2 |
| Incentive pay rates or administration | 22 | .4 | 13.2 | .8 | 191.2 | .6 |
| Job classification or rates | 52 | 1.0 | 13.7 | .8 | 144.2 | .5 |
| Downgrading | 2 | (*) | .7 | (*) | 2.4 | (*) |
| Retroactivity | 2 | (*) | .1 | (*) | .3 | (*) |
| Method of computing pay | 48 | 1.0 | 10.9 | .6 | 26.2 | .1 |
| Hours of work | 7 | .1 | .3 | (*) | 9.6 | (*) |
| Increase | 3 | .1 | .2 | (*) | 6.1 | (*) |
| Decrease | 4 | .1 | .1 | (*) | 3.7 | (*) |
| Other contractual matters | 75 | 1.5 | 23.6 | 1.4 | 405.8 | 1.3 |
| Duration of contract | 14 | .3 | 6.0 | .3 | 144.4 | .5 |
| Local issues supplementing national contract | 4 | .1 | 6.7 | .4 | 52.6 | .2 |
| Unspecified | 57 | 1.1 | 11.0 | .6 | 208.8 | .7 |
| Union organization and security | 268 | 5.3 | 92.3 | 5.3 | 1,435.0 | 4.6 |
| Recognition (certification) | 114 | 2.3 | 5.5 | .3 | 168.0 | .5 |
| Recognition and jot security issues | 5 | .1 | .3 | (*) | 17.1 | .1 |
| Recognition and economic issues | 16 | .3 | 1.9 | .1 | 49.1 | .2 |
| Strengthening bargaining position or union shop and economic issues | 78 | 1.6 | 13.8 | .8 | 595.8 | 1.9 |
| Union security | 15 | .3 | 62.2 | 3.6 | 603.2 | 1.9 |
| Refusal to sign agreement | 12 | .2 | .5 | (*) | 24.7 | .1 |
| Other union organization matters | 28 | .6 | 7.2 | .4 | 26.5 | .1 |
| Job security | 257 | 5.1 | 205.7 | 11.8 | 3,153.8 | 10.1 |
| Seniority and/or layoff | 40 | .8 | 17.3 | 1.0 | 227.7 | .7 |
| Division of work | 3 | .1 | .3 | (*) | .6 | (*) |
| Subcontracting | 14 | .3 | 3.3 | .2 | 25.5 | .1 |
| New machinery or other technological issues | 2 | (*) | .4 | (*) | 3.1 | (*) |
| Job transfers, bumping, etc. | 4 | .1 | 1.1 | .1 | 4.1 | (*) |
| Transfer of operations or prefabricated goods | 122 | 2.4 | 167.5 | 9.6 | 2,838.9 | 9.1 |
| Job security and economic issues | 72 | 1.4 | 15.7 | .9 | 53.6 | .2 |
| Other | 1,142 | 22.7 | 431.6 | 24.7 | 2,883.7 | 9.2 |
| Plant administration | 152 | 3.0 | 24.9 | 1.4 | 47.5 | .2 |
| Physical facilities, surroundings, etc. | 165 | 3.3 | 56.7 | 3.2 | 561.9 | 1.8 |
| Safety measures, dangerous equipment, etc. | 26 | .5 | 7.1 | .4 | 24.7 | .1 |
| Supervision | 37 | .7 | 22.1 | 1.3 | 120.0 | .4 |
| Shift work | 108 | 2.1 | 29.2 | 1.7 | 169.8 | .5 |
| Work assignments | 25 | .5 | 74.6 | 4.3 | 406.4 | 1.3 |
| Speedup (workload) | 37 | .7 | 52.2 | 3.0 | 884.1 | 2.8 |
| Work rules | 45 | .9 | 9.2 | .5 | 28.1 | .1 |
| Overtime work | 211 | 4.2 | 67.2 | 3.8 | 237.1 | .8 |
| Discharge and discipline | 336 | 6.7 | 88.5 | 5.1 | 308.0 | 1.0 |
| Other | 137 | 2.7 | 60.0 | 2.3 | 197.9 | .6 |
| Other working conditions | 10 | .2 | 9.3 | .5 | 39.1 | .1 |
| Arbitration | 41 | .8 | 10.8 | .6 | 124.6 | .4 |
| Grievance procedures | 86 | 1.7 | 19.9 | 1.1 | 34.1 | .1 |
| Unspecified contract violations | 317 | 6.3 | 77.7 | 4.5 | 200.9 | .6 |
| Interunion or intraunion matters | 3 | .1 | 6.0 | .3 | 8.0 | (*) |
| Union rivalry[1] | 2 | (*) | .4 | (*) | .4 | (*) |
| Jurisdiction—representation of workers[2] | 231 | 4.6 | 35.4 | 2.0 | 113.1 | .4 |
| Jurisdiction—work assignment | 18 | .4 | 15.0 | .9 | 30.4 | .1 |
| Union administration[3] | 62 | 1.2 | 20.4 | 1.2 | 46.6 | .1 |
| Sympathy | 1 | (*) | .5 | (*) | 2.4 | (*) |
| Other | 30 | .6 | 2.5 | .1 | 33.5 | .1 |
| Not reported | | | | | | |

[1]Includes disputes between unions of different affiliation, such as those between AFL-CIO affiliates and independent organizations.

[2]Includes disputes between unions, usually of the same affiliation or 2 locals of the same union, over representation of workers.

[3]Includes disputes within a union over the administration of union affairs or regulations.

*Less than 0.05 percent.

**Fewer than 100 workers.

NOTE: Because of rounding, sums of individual items may not equal totals.

APPENDIX B

## Work Stoppages, by Industry Group, 1937-75—Continued

| Industry group | Stoppages beginning in year | | Days idle during year (all stoppages) | |
|---|---|---|---|---|
| | Number | Workers involved (thousands) | Number (thousands) | Percent of estimated total working time[1] |
| | 1975 | | | |
| All industries | 5,031 | 1,745.6 | 31,237.0 | 0.16 |
| Manufacturing | 1,697 | 463.8 | 14,876.1 | 0.32 |
| Ordnance and accessories | 9 | 6.9 | 193.7 | 0.45 |
| Food and kindred products | 165 | 29.1 | 633.4 | .20 |
| Tobacco manufactures | | | | |
| Textile mill products | 21 | 2.2 | 27.3 | .01 |
| Apparel and other finished products made from fabrics and similar materials | 55 | 10.0 | 109.5 | .04 |
| Lumber and wood products, except furniture | 61 | 17.2 | 282.6 | .20 |
| Furniture and fixtures | 57 | 11.6 | 354.4 | .31 |
| Paper and allied products | 68 | 12.2 | 622.2 | .38 |
| Printing, publishing, and allied industries | 47 | 13.5 | 237.6 | .09 |
| Chemicals and allied products | 109 | 17.7 | 747.4 | .29 |
| Petroleum refining and related industries | 30 | 20.4 | 613.3 | 1.23 |
| Rubber and miscellaneous plastics products | 57 | 10.4 | 238.1 | .16 |
| Leather and leather products | 9 | 1.0 | 9.3 | .01 |
| Stone, clay, and glass products | 140 | 17.6 | 454.3 | .31 |
| Primary metal industries | 161 | 42.6 | 1,158.9 | .39 |
| Fabricated metal products, except ordnance, machinery, and transportation equipment | 309 | 48.6 | 1,479.3 | .53 |
| Machinery, except electrical | 274 | 74.4 | 2,370.8 | .45 |
| Electrical machinery, equipment, and supplies | 120 | 34.0 | 650.7 | .19 |
| Transportation equipment | 137 | 77.9 | 3,404.9 | .82 |
| Professional, scientific, and controlling instruments; photographic and optical goods; watches and clocks | 32 | 10.7 | 287.2 | .23 |
| Miscellaneous manufacturing industries | 37 | 5.8 | 256.6 | .25 |
| Nonmanufacturing | 3,134 | 1,281.8 | 16,360.9 | .11 |
| Agriculture, forestry, and fisheries | 7 | 0.7 | 35.9 | 0.01 |
| Mining | 1,165 | 391.6 | 1,642.8 | .68 |
| Contract construction | 600 | 338.0 | 7,307.3 | .84 |
| Transportation, communication, electric, gas, and sanitary services | 258 | 165.8 | 3,039.0 | .27 |
| Wholesale and retail trade | 371 | 63.4 | 1,426.0 | .03 |
| Finance, insurance, and real estate | 18 | 3.0 | 169.0 | .02 |
| Services | 228 | 29.9 | 425.6 | .01 |
| Government[2] | 478 | 318.5 | 2,204.4 | .06 |
| Federal | 32 | 65.6 | 330.5 | |
| State | 44 | 15.0 | 78.8 | |
| County | 252 | 132.3 | 1,419.4 | |
| City | [3] | [3] | [3] | |
| School district | | | | |
| Other local government | | | | |
| Special districts[4] | 150 | 44.7 | 455.7 | [5] |

[1]Agricultural and government employees are included in the total employed and total working time; private household, forestry, and fishery employees are excluded. An explanation of the measurement of idleness as a percentage of the total employed labor force and of the total time worked is found in "Total Economy Measure of Strike Idleness," *Monthly Labor Review*, Oct. 1968.

[2]Stoppages extending into 2 industry groups or more have been counted in each industry affected; workers involved and days idle were allocated to the respective groups.

[3]Exclude government and agriculture.

[4]Not available.

[5]For statistical purposes, the stoppages reported have been deemed to fall within the Bureau's definition of a work stoppage. The decision does not constitute a legal determination that a work stoppage has taken place in violation of any law or public policy.

[6]For all government except Federal and State.

[7]Includes all strikes that occur in specially created districts that do not conform to pre-existing boundary lines.

NOTE: Because of rounding, sums of individual items may not equal totals.

# The Unions That Represent Federal Employees

Federal employees are represented by 78 separate national unions and associations, some of them well-known unions that also represent workers in the private sector, some of them small and obscure that represent federal employees exclusively.

Following is a list prepared by the Civil Service Commission of unions and associations that represent civilian employees of the federal government (excluding employees of the independent U.S. Postal Service). This list also includes the number of federal workers represented by (but not necessarily members of) each union as of November 1977.

The groups represent about 58 per cent of the federal work force (again, excluding postal workers). But only about 30 per cent to 35 per cent of covered workers actually are members of the unions.

Aeronautical Production Controllmen Association (537)
Alaska Fishermen's Union (16)
Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO (22)
American Federation of Government Employees, AFL-CIO (679,033)
American Federation of State, County and Municipal Employees, AFL-CIO (5,485)
American Federation of Teachers, AFL-CIO (1,126)
American Nurses' Association (7,431)
American Postal Workers Union, AFL-CIO (138)
American Train Dispatchers Association, AFL-CIO (3)
Association of Civilian Technicians (9,195)
Brotherhood of Railway, Airline and Steamship Clerks, AFL-CIO (19)
Brotherhood of Railway Carmen, AFL-CIO (60)
California Association of Medical Lab Technology, Engineers and Scientists (29)
Columbia Basin Trades Council, AFL-CIO (307)
Columbia Power Trades Council, AFL-CIO (1,654)
Engineers and Scientists of California (504)
Federal Plant Quarantine Inspectors National Association (1,106)
Federal Public Service Employees, AFL-CIO (238)
Fraternal Order of Police (347)
Government Employees Assistance Council (68)
Graphic Arts International Union, AFL-CIO (906)
International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators, AFL-CIO (18)
International Association of Fire Fighters, AFL-CIO (2,689)
International Association of Machinists, AFL-CIO (31,094)
International Association of Siderographers, AFL-CIO (4)
International Association of Tool Craftsmen (32)
International Brotherhood of Electrical Workers, AFL-CIO (4,949)
International Brotherhood of Firemen and Oilers, AFL-CIO (168)
International Brotherhood of Painters and Allied Trades, AFL-CIO (1,311)
International Brotherhood of Teamsters (504)
International Chemical Workers Union, AFL-CIO (210)
International Federation of Professional and Technical Engineers, AFL-CIO (10,035)
International Organization of Masters, Mates and Pilots, AFL-CIO (434)
International Plate Printers, Die Stampers and Engravers Union, AFL-CIO (174)
International Printing and Graphic Communications Union, AFL-CIO (65)
International Printing Pressmen and Assistants Union, AFL-CIO (34)
International Typographical Union, AFL-CIO (4)
International Union of Operating Engineers, AFL-CIO (739)
Laborers' International Union, AFL-CIO (4,911)
Methods and Standards Analysts Association (88)
National Alliance of Postal and Federal Employees (1,043)
National Army Air Technicians Association, AFL-CIO (1,099)
National Association of Aeronautical Examiners (298)
National Association of Air Traffic Specialists, AFL-CIO (3,756)
National Association of Broadcast Employees and Technicians, AFL-CIO (53)
National Association of Government Employees (81,834)
National Association of Government Inspectors and Quality Assurance Personnel (917)
National Association of Planners, Estimators and Progressmen (1,555)
National Economic Council of Scientists (65)
National Education Association (8,095)
National Federation of Federal Employees (133,037)
National Labor Relations Board Professional Association (212)
National Labor Relations Board Union (1,795)
National Marine Engineers' Beneficial Association, AFL-CIO (751)
National Maritime Union, AFL-CIO (5,046)
National Operations Analysts Association (181)
National Treasury Employees Union (92,736)
National Union of Compliance Officers (400)
National Weather Service Employees Organization (148)
Office and Professional Employees International Union, AFL-CIO (130)
Patent Office Professional Association (1,163)
Pattern Makers' League of North America, AFL-CIO (151)
Police Benevolent Association (176)
Policemen's Association of the District of Columbia (427)
Professional Air Traffic Controllers Organization, AFL-CIO (18,308)
Professional Association of the Interstate Commerce Commission (266)
Retail Clerks International Union, AFL-CIO (94)
Seafarers' International Union, AFL-CIO (1,849)
Service Employees' International Union, AFL-CIO (11,524)
Sheet Metal Workers' International Association, AFL-CIO (12)
Trademark Society Inc. (60)
United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry, AFL-CIO (295)
United Brotherhood of Carpenters and Joiners, AFL-CIO (17)
United Police and Security Association (26)
United Telegraph Workers, AFL-CIO (88)
United Transportation Union, AFL-CIO (156)
VA Independent Service Employees Union (702)
Western Council of Engineers (454)

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APPENDIX D

## Title VII — Labor-Management Relations

- Gave federal employees the right to join labor unions and bargain collectively on certain employment conditions.
- Exempted the GAO, FBI, CIA, NSA, Tennessee Valley Authority, Federal Labor Relations Authority (FLRA) and the Federal Service Impasses Panel from the labor-management provisions
- Established the FLRA as a bipartisan, three-member independent agency.
- Provided that FLRA members would be appointed by the president with the approval of the Senate for five-year terms and could be removed by the president only after notice and hearing and only for misconduct, inefficiency, neglect of duty or malfeasance in office.
- Authorized the president to designate one member as chairman of the FLRA.
- Provided that the president would appoint a general counsel, to be confirmed by the Senate, to the FLRA for a five-year term.
- Provided that the general counsel could be removed by the president at any time.
- Authorized the general counsel to investigate and prosecute unfair labor practices.
- Authorized the FLRA to supervise union elections, hold hearings on and resolve complaints about unfair labor practices and resolve other labor rights issues.
- Authorized the FLRA to order an agency or a labor group to stop an unfair labor practice or to take any remedial action judged appropriate by the authority.
- Prohibited negotiations between agencies and federal employee labor unions on matters reserved as management rights, which included agency mission, budget, organization and internal security practices; hiring, assigning, directing, laying off and retaining employees in the agency; suspending, discharging, reducing in grade or pay or taking other disciplinary action against employees; work assignments; contracting out and carrying out agency mission during emergencies.
- Provided that agencies and labor groups could negotiate numbers, types and grades of employees or positions assigned to any organizational subdivision, work project or tour of duty; technology, methods and means of performing work; procedures management must observe in exercising its rights and arrangements for employees adversely affected by exercise of management rights.
- Required agencies to give exclusive recognition to a labor organization chosen by a majority of the employees in a unit who cast votes in a secret ballot election, if the organization met certain other requirements.
- Required the FLRA to investigate all petitions challenging a union's representation and to supervise union elections.
- Spelled out procedures for elections.
- Required agencies to give national consultation rights to labor organizations meeting certain requirements, and required them to inform those organizations of any proposed substantive changes in employment conditions and to permit the organizations to present views and recommendations on the proposed changes.
- Required a union with exclusive recognition rights to represent the interests of all employees in the unit it represents, regardless of whether they belonged to the union.
- Gave a union with exclusive representation rights authority to be represented at certain meetings between employees and management concerning grievances, personnel policy or practices, general conditions of employment or disciplinary action.
- Required agencies and unions to negotiate in good faith, and defined other union and agency duties.
- Required an agency — at no cost to a union with exclusive recognition rights — to deduct union dues from the paycheck of a union employee who gives written authority for dues withholding.
- Defined unfair labor practices for agencies and unions.
- Provided that a labor union could challenge an agency's compelling need for any rule or regulation dealing with its employees, and provided that the FLRA would make a determination on the agency's challenge.
- Required agencies to inform unions with exclusive representation rights to consult with those unions on government-wide rules or regulations that would make a substantial change in employment conditions.
- Authorized the FLRA general counsel to investigate charges of unfair labor practices against unions or agencies
- Authorized the FLRA to hear and adjudicate cases involving unfair labor practice complaints.
- Authorized the FLRA to order a halt to an unfair labor practice, to require a union and an agency to renegotiate a collective bargaining agreement or to require reinstatement of an employee with back pay, if the authority found a preponderance of the evidence supported the charges of unfair labor practices brought against either an agency or a union.
- Established the Federal Service Impasses Panel within the FLRA to consider disputes when third party mediation between an agency and a union has reached an impasse.
- Provided that the panel would have at least seven members appointed by the president to five-year terms.
- Established standards of conduct for labor organizations.
- Required that any collective bargaining agreement between an agency and a union must provide procedures for grievance settlements.
- Defined procedures for negotiation of grievances and gave employees the option of using statutory procedures or negotiated grievance procedures to resolve discrimination complaints.
- Provided judicial review of some FLRA final orders.
- Limited the amount of official time employees could use for labor union activities.
- Authorized all FLRA members, the general counsel, the Federal Service Impasses Panel or any employee designated by the FLRA to subpoena witnesses.
- Applied the Back Pay Act of 1966 to federal employees in certain situations.