



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD



TO: Commissioners Brown, Carlson, Barofsky, McRae and Schlossberg
FROM: Lena Kostopulos, Chief Workforce Officer
DATE: May 13, 2022
SUBJECT: Collective Bargaining Background
OBJECTIVE: Information Only

Issue

To provide Commissioners with both general and legal background information related to upcoming collective bargaining with the International Brotherhood of Electrical Workers (IBEW or Union).

Background

The most recent collective bargaining agreement (CBA) with the IBEW was negotiated during 2015 and early 2016. The agreement was adopted in April of 2016, extended in 2021, and is set to expire on March 31, 2023. Negotiations for a new agreement are expected to commence in June 2022.

EWEB's bargaining team will be led by myself and Kira Hutchens, Workforce Services Operations Manager, and will also include the following management members:

Rod Price, Assistant General Manager	Deborah Hart, Chief Financial Officer,
Karen Kelly, Chief Operations Officer	Scott Milovich, Support Services Manager
Tyler Nice, Electric Manager	Keith Jeskey, Sr. Human Resources Partner

This memo describes and clarifies the Board's role throughout the negotiation and contract ratification process, describes changes in the law governing collective bargaining for public entities, and provides details pertaining to the required collective bargaining steps and their associated time frames for the Board's information.

Discussion

The Board's Role Throughout Negotiations and Ratification

Unions often try to leverage members of an organization's governing board to influence management during collective bargaining. Board members should expect to be contacted by IBEW representatives during the bargaining process. IBEW members may also appear at Board meetings to speak during public hearings or comment periods. It is important for EWEB Commissioners to understand that they are representatives of EWEB. Any statement they make or activity they may engage in related to collective bargaining may be binding upon EWEB and put EWEB in a position of having committed an unfair labor practice. With this in mind, I offer the following "do's and don'ts:"

1. Don't talk to employees concerning bargaining positions or objectives. Refer all inquiries to the Chief Workforce Officer or the Bargaining Team.
2. Don't question employees about their feelings or opinions regarding their union or bargaining.

3. Do engage in your normal Board work, but carefully evaluate any significant decision and its potential impact on bargaining prior to taking action.
4. Don't share discussions about bargaining that take place in executive sessions, which is permitted under ORS 192.660 (2)(d).
5. Do maintain a positive relationship with bargaining unit members (and all employees)

The Board's Role in Ratification of the Agreement

Under PECBA (Public Employers Collective Bargaining Act) and EWEB's governing documents, the Board is not required to ratify a CBA. The General Manager and designated staff are authorized to negotiate terms and conditions of employment, including CBAs. Thus, a CBA may be executed by the General Manager without the need for Board approval.

That said, the Board retains practical control of results. In addition, the Board maintains control over budgets, goals, and plans. The Board's authority to adopt budgets, goals, and plans may constrain the practical authority of the General Manager. Consequently, the Board should expect executive session consultation by the General Manager and the persons designated to carry on labor negotiations during the process of collective bargaining and especially as the negotiations reach their final stages.

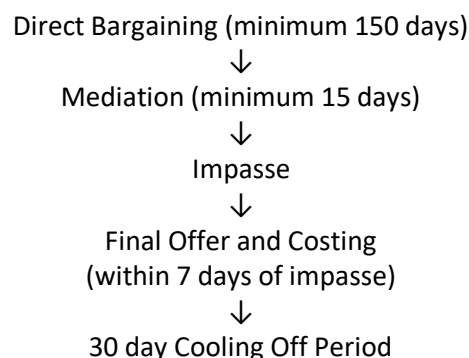
New Statute Regarding Union-Related Activities by Bargaining Unit Members

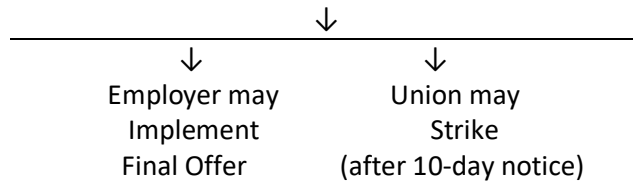
A new law now entitles "designated representatives" of the IBEW to engage in collective bargaining activities while being compensated by EWEB during their regularly scheduled work hours. Specifically, Section 3 of HB 2016 (2019), ORS 243.796, grants public employees who are "designated representatives" of a union reasonable time to engage in union-related activities during the public employee's regularly scheduled work hours without loss of compensation, seniority, leave accrual or any other benefits. The list of union-related activities is very broad and includes the right to "act as a representative of the [union] for employees within the bargaining unit for purposes of collective bargaining." A "designated representative" of a union is essentially anyone designated by the union.

The Union intends to designate 8 to 10 bargaining unit members to participate in collective bargaining. This may affect the utility's operational bandwidth. EWEB is exploring ways to use Workforce Services personnel and legal counsel to reduce the effect of bargaining on managerial and supervisory employees.

Bargaining Steps and Associated Timeline

One thing that has not changed is the general legal outline of the bargaining process. Of course, the goal of negotiations is to reach an agreement, but the following flow chart and narrative description of the process as set out in PECBA, including the steps required if the parties come to an impasse, are offered for the Board's awareness.





Under the Public Employee Collective Bargaining Act (PECBA), EWEB and the IBEW are initially required to meet and bargain directly with each other. PECBA requires that the parties participate in good faith negotiations for at least 150 calendar days before either party may unilaterally request the assignment of a mediator. The 150 days begin when the parties meet for the first bargaining session and have exchanged their initial proposals, or an alternative date to which both parties agree in writing.

If the parties do not reach agreement after the initial 150 calendar days of bargaining, either party can initiate the mediation process by sending a written request for mediation to Employment Relations Board (ERB)'s State Conciliation Service. The parties may also mutually agree to go to mediation before the expiration of the 150-day period. In these cases, the request for mediation must be signed by both parties. It is sincerely hoped that the parties will reach agreement without the need for mediation.

Once the request for mediation is made, a mediator is appointed. The parties are notified of the appointment and a mediation session is scheduled as soon as a mediator and the members of both bargaining teams are available. If the first session is unsuccessful, additional mediation sessions may be scheduled. PECBA mandates that parties remain in mediation for a minimum of 15 calendar days. After the 15 days, the parties may continue in mediation or either party may initiate the next step in the process by declaring an impasse in the negotiations.

Within seven days of the declaration of impasse, each party must submit to the mediator the final offer of the party, including a cost summary of the offer. Upon receipt of the final offers, the mediator makes public the final offers, including any proposed contract language and each party's cost summary dealing with those issues, on which the parties have failed to reach agreement.

The next step, fact-finding, is optional. Within 30 days after the mediator makes public the parties' final offers, the parties may jointly petition the ERB to appoint a fact finder. If the parties jointly petition for fact-finding, a fact finder is appointed, and a hearing is conducted.

If an agreement has not been reached 30 days after the mediator makes public the final offers, or if the parties participated in fact-finding, 30 days after the receipt of the fact finder's report, the public employer may implement all or part of its final offer (after reasonable notice to the union), and the public employees have the right to strike (after 10 days' notice).

EWEB and the IBEW could also jointly agree to resolve their labor dispute through binding interest arbitration.

Conclusion

I hope the information contained in this memorandum is helpful to the Board as EWEB and the IBEW negotiate a new collective bargaining agreement. Management's bargaining team members and I will provide periodic status reports to the Board through General Manager Lawson, or directly during scheduled executive sessions.

TBL Assessment N/A

Recommendation N/A

Requested Board Action - Information Only