

MAMA GLS

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Collective Bargaining 101

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Recent Changes in Michigan Labor Laws Affecting Collective Bargaining

PA 54 of 2011 repealed (Attachment A)

Public Act 54 of 2011 (previously) prohibited local units of government from doing the following:

1. Increasing the public employer's contribution to employee healthcare benefits. Employees paid any increased cost of maintaining health, dental, vision and prescription insurance benefits that occurred after the contract expiration date.
2. Providing step or general wage increases after the expiration date of the collective bargaining agreement until a successor collective bargaining agreement is in place.
3. Providing retroactive wage or benefit increases when a successor collective bargaining agreement is negotiated.

Continued: Recent Changes in Michigan Labor Laws Affecting Collective Bargaining

PA 348 of 2012 – Right to Work repealed – (Attachment B)

But note landmark U.S. Supreme Court case, *Janus v AFSCME*, 138 S Ct 2448 (2018), ruled that agency-shop agreements compelling public employees to subsidize union activity is a violation of the First Amendment so effectively, the requirements of Right to Work remain applicable to public employers.

State Law Covering Public Employees

- 1. Public Employment Relations Act (PERA) MCL 423.201, et seq.**
- 2. Labor Mediation Act (LMA), MCL 423.1, et seq.**
- 3. Michigan Employment Relations Commission (MERC) administers the above statutes.**



The Key Components to Negotiating a Good Contract

Review existing Collective Bargaining Agreements:

- Review all grievances filed during the life of the Agreement to identify problem provisions/wording.
- Review Arbitration Awards issued during the life of the Agreement.
- Review Letters of Understanding negotiated during the life of the Agreement.



Continued: The Key Components to Negotiating a Good Contract

Get input from front-line supervisors regarding day-to-day problems and suggestions for operational and contract language changes.

Review Employer proposals from prior negotiation sessions that were rejected for relevance.

Open Meetings Act – Closed session available for bargaining sessions themselves and to discuss strategy and updates on bargaining progress. (Attachment C - MCL 15.268(1)(c))



Continued: The Key Components to Negotiating a Good Contract

Prepare data from comparable employers' agreements.

- External comparables using ability to pay based on taxable value – +/-20-25% (Attachment D)

<https://www.michigan.gov/taxes/property/reports/ad-valorem-property-tax-levy-reports>

- Internal Union contracts wages and benefits.
- Develop maximum wage rate exhibits to identify your relative strength or weakness. Highlight collective bargaining agreements with same Union.



Continued: The Key Components to Negotiating a Good Contract

Draft tentative proposals using actual contract language not concepts.

Meet with Board/Council in closed session to review comparability findings and recommendations for proposals including economic proposals. Secure Board input and approval of proposals with approval for maximum authority at bargaining table on each issue.

***Return to legislative body to provide updates as needed or revisit authority on issues.**



Continued: The Key Components to Negotiating a Good Contract

Prioritize Proposals – What does the legislative body view as highest priority, etc. This is critical and should be used as your measuring stick/barometer for how much success is achieved during bargaining and during Board ratification of what was actually TA'd.

Determine who will be on Negotiation Team, and who will serve as spokesperson or “Chief Negotiator” and who will serve as documentarian.



Mandatory Subjects of Bargaining

- **Wages**
- **Health Insurance**
- **Benefits**
- **Hours and working conditions**

See pending legislation (HB 4688, Attachment E) regarding addition of minimum staffing as a mandatory subject of bargaining. No action on this HB since Nov. 2023.



Non-Mandatory Subjects of Bargaining

- **Budget**
- **Decision re: layoffs**
- **Policy – prioritizing services**



Requirement to Bargain in Good Faith

- **Stalling**
- **Unwillingness to discuss or consider certain issues**
- **Blatant refusal to negotiate issues**
- **By-passing the Union's appointed or elected representatives (but can distribute factual information regarding Employer offers that have been rejected)**
- **Expressing anti-union animus**



Information Requests

Employer requirement to provide information to the Union which has a bearing on the issues raised in bargaining. Examples:

- Budget**
- Audit**
- MERS Actuarial Report**
- Insurance contracts**
- Overtime worked**
- List of names/address of members in the bargaining unit.**



Negotiation Process

Negotiation Dates and Times:

- Schedule two or three dates max – Union employee negotiators are normally paid by the Employer for bargaining (not always) so they have little incentive to get a contract quickly.
- Understand the use of time as a negotiation tactic. Side with less time pressure generally holds strategic advantage.



Continued: Negotiation Process

Request Union Proposals – MERC and PERA places burden on Union to submit “demand to bargain” and proposals to start the bargaining process.

- **Review prior to first meeting.**

Consider providing Employer Proposals in writing prior to first meeting as well.

***Potentially review union proposals with legislative body early in process if possible (e.g. prior to setting employer parameters).**



Continued: Negotiation Process

First meeting:

Use introductions – Shake hands. Be ceremonial.

- **Establish Ground Rules including requirement for ratification by union first. (Attachment F)**
- **Keep track of who was present and notes on discussions.**

Respond to Union Proposals with a request that the Union prioritize its proposals with most important, etc.

Require proposals to be exchanged in writing.



Continued: Negotiation Process

Utilize internal caucus and sidebars in an effort to narrow and reduce open issues.

Not required to respond to Union Proposals with Employer Proposals. Instead, may maintain separate documents and when nearing conclusion consider use of an “Employer Package Offer.”

Package offer could include expiration, e.g. if not TA’d by the end of the negotiation session the same day. (Attachment G)



Continued: Negotiation Process

Place dates and signatures or initials on every page of Tentative Agreements (TAs).

MERC caselaw requires ratification by each party within 30 days of the TA.

Use MERC Mediation sooner than later – No charge.

- Narrow issues but leave room to negotiate.**
- Psychology of reaching a deal, do not start with end point. Give and take. Control communication.**



Continued: Negotiation Process

Non-binding Fact Finding is a mandatory step in non-312 units.

Impasse – Unilateral implementation following Notice of Last Best Offer to Union (non-312).

End

QUESTIONS?

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