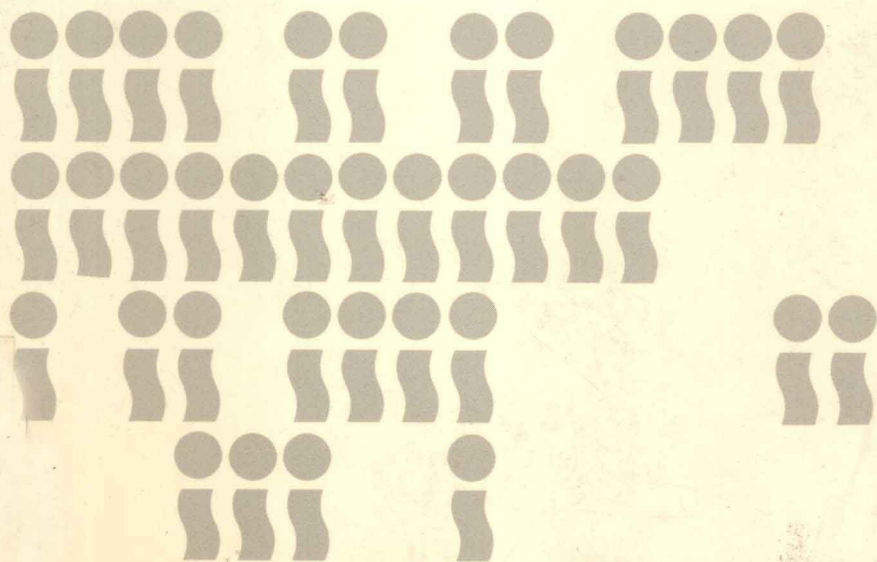


Public Sector Labor Relations

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Public Sector Labor Relations

Analysis and Readings

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Preface

In addition to a new title, the third edition of *Public Sector Labor Relations: Analysis and Readings* has undergone several other important changes. First, regarding content, the book now contains twenty-five reading selections, compared to thirty-seven in the first edition and thirty in the second edition. Ten of the twenty-five readings are new to this book but, like the others, were originally published elsewhere, in scholarly and professional journals and as portions of books and monographs.

Second, each of the chapter introductions has been completely rewritten to take account of new developments, issues, public policies, and especially published research that has appeared since 1981, when the second edition was published. This includes part III of the book, which now features an updated police collective bargaining exercise and a teacher grievance case.

Third, the three original authors of the book have been joined by Professor John Delaney of Columbia University's Graduate School of Business. As before, the undertaking and completion of this edition of the book reflect a fully collaborative effort. Each author prepared the written material for and edited the reading selections in the chapters for which he was responsible. These were then reviewed and modified as required by the other authors. Lewin bore primary responsibility for chapters 3 and 6; Feuille for chapter 5, the bargaining exercise, and the grievance case; Kochan for chapter 4; and Delaney for chapters 2 and 7. Chapters 1 and 8 reflect contributions from and a blending of the views of the four authors.

Fourth, this edition of the book has a new publisher, Lexington Books, a division of D.C. Heath and Company. We are grateful to Bruce Katz of Lexington Books for his encouragement and assistance in the completion and publication of the third edition of *Public Sector Labor Relations: Analysis and Readings*. At the same time, we wish to acknowledge the support and friendship of Tom and Ann Horton of Thomas Horton and Daughters, Inc., the publisher of the first and second editions.

Despite all these changes, the third edition of this book is similar to the previous editions in several key respects. A common complaint about books of readings is that they rarely are constructed to give teachers and students

coherent perspective on the subject matter at hand. A further alleged shortcoming of collections of readings is that they often overcondense or truncate reading selections, thereby providing only bits and pieces of the relevant material to the reader. We have sought to avoid these deficiencies by integrating the topics chosen for inclusion, the textual materials and reading selections, and the readings contained in each chapter and subdivision thereof. Further, in most cases we have reprinted as full a version as possible of the original selection. Perhaps most important, all this material is organized into three main sections: background and overview, collective bargaining processes, and collective bargaining outcomes. These correspond to what we believe are the key dimensions of public sector labor relations: setting, process, and outcome.

Also as in previous editions, we integrate to the extent possible research on public sector labor relations with research drawn from the private sector. This is most clearly apparent in the authors' introduction to each chapter, and this material should help readers make judgments about the similarities and differences between public sector and private sector labor relations. Additionally, the collective bargaining exercise and grievance case, both drawn from real world public sector labor-management relationships, permit students to apply and observe experientially some of the concepts and processes discussed in this book.

The reader will probably note that we have contributed more written material to some chapters than to others, and also that the material and readings are arranged according to topical subdivision in some but not all chapters. This is a result of our conscious strategy in writing and organizing the materials to overcome gaps in the literature. In some topic areas, the gaps were substantial (though less so than in 1981 when the second edition of the book was published); in others the gaps were relatively small and/or the existing literature hung together reasonably well. Hence, we purposely chose to be responsive to this diversity in our own writing and editorial efforts, rather than to design an artificially uniform organizational format for the book.

We continue to believe that this book is well suited to courses in public sector labor relations, where it can serve as a basic textbook, and to courses in private sector collective bargaining and labor-management relations, where it can serve as a companion volume to other textbooks. However, by drawing from a broad base of public sector labor relations research, including one article that deals with aspects of the Canadian experience in this area, we hope to broaden the appeal of this book beyond those who are particularly interested in governmental collective bargaining. Specifically, the concepts, analytical frameworks, research designs, empirical findings, and policy implications contained in the following pages, together with the explicit recognition throughout of the economic, political, legal, and organiza-

tional forces that affect public sector bargaining processes and outcomes, commend the book to those interested in public management and administration, urban studies, personnel and human resource management, organizational behavior, and of course, industrial relations.

Publication of this book would not have been possible without the gracious permission of many individuals and organizations to reprint the reading selections contained herein. In addition to the authors, who are individually identified in the Contents and in the readings, we wish explicitly to acknowledge our appreciation to the following: *The Arbitration Journal*, The Association of Labor Mediation Agencies, The Brookings Institution, D.C. Heath and Company, *Industrial and Labor Relations Review*, *Industrial Relations*, Industrial Relations Research Association, New York State School of Industrial and Labor Relations, Cornell University, Plenum Press, and *The Review of Economics and Statistics*.

In sum, we hope that this third edition of *Public Sector Labor Relations: Analysis and Readings* serves the purpose of pulling together in a single volume the key issues, concepts, and research findings pertaining to contemporary public sector labor relations. It was the absence of such a volume that originally motivated us to prepare this book; the reactions of teachers and students to the first two editions were instrumental to our decision to produce a third edition. The wisdom of that decision will once again depend on the extent to which teachers and students find the book to be a useful learning tool.

David Lewin
Peter Feuille
Thomas A. Kochan
John Thomas Delaney

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1

Background and Overview

Objectives and Focus of the Book

By the late 1980s, roughly a quarter-century of experience with “modern” collective bargaining had accumulated in the American public sector. During this period unionism advanced to the point where well over one-third of all public employees and about 45 percent of full-time public employees belonged to labor unions and employee associations—membership rates that far surpassed those prevailing in private industry.¹ Collective bargaining became a widespread mechanism for determining terms and conditions of public employment, and individual states continued to experiment with various forms of legislation to regulate labor relations and dispute resolution in the public sector.

Readers of the two previous editions of this book will recall that we identified a first and a second generation of public sector bargaining in the United States, which roughly corresponded to the 1960s and the 1970s, respectively.² The first generation featured an expansive economic climate, rapidly growing public employment, and a political environment that strongly supported public sector unionism and bargaining rights. The second generation, in contrast, witnessed taxpayer revolts, a shrinking public sector, and a political climate that supported restrictions on union activities and a hard bargaining stance on the part of public managers.

Can it fairly be said that, in the 1980s, the United States is experiencing a third generation of public sector bargaining? If so, what are its leading characteristics? Although we believe a generational interpretation of the evolution of public sector labor relations can be carried too far—which is a way of saying that we are not fully convinced that a third generation is upon us—the 1980s seem to feature a more pronounced emphasis on the performance and productivity of public services and public employees.

Consider, for example, recent initiatives to require competency testing of public school teachers, create master teacher positions, provide teacher performance “bonuses,” and raise entry-level pay to attract higher quality

teachers.³ Or consider public sanitation service, where rapid technological change, especially automation, together with major job restructuring, has brought about a smaller, more productive public work force. (See the Lewin reading in chapter 4). Indeed, in sanitation and in several other public services the specter (or fact) of privatization has contributed strongly to the heightened emphasis on the performance of governments as service providers.⁴

From one perspective, these and related developments appear to threaten public employee unionism and collective bargaining. In the 1980s, unquestionably, some legislatures have sought to circumscribe public employees' unionism and bargaining rights, and some public employers have sought (and achieved) bargaining givebacks and other concessions. Certainly, no recounting of key public sector labor relations developments of the 1980s could overlook the firing of striking federal air traffic controllers by President Reagan and the subsequent demise of the Professional Air Traffic Controllers' Organization (PATCO). (See the discussion and readings about this event in chapter 4.)

From another perspective, however, the 1980s emphasis on the performance, productivity, even competitiveness, of the public sector provides new opportunities for public unionists and bargainers. Consider how leaders of the National Education Association (NEA) and the American Federation of Teachers (AFT) have adopted the teacher competence issue as one of their own and used it to strengthen their respective organizations. Unionized clerical and professional employees, sanitation workers, police, and other groups of public employees have joined with public managers to negotiate a variety of cooperative labor agreements that, for example, establish joint committees to deal with work performance, job design, quality of working life, and organizational communications. Further, in the 1980s some states, such as Ohio and Illinois, have enacted public sector bargaining legislation where none previously existed. Thus, it is not at all clear that the heightened emphasis on the performance and productivity of government poses fundamental threats to public employee unionism and bargaining; to the contrary, both seem very much alive.

Whether or not the reader agrees with our judgment call on this matter, the central objectives of the third edition of this book remain the same as those of the previous editions: to present and assess the state of knowledge concerning the key issues and problems of public sector bargaining by drawing on some of the leading research completed to date. Additionally, however, we will pose a number of unanswered questions that we believe will confront policymakers and practitioners in the years ahead and which therefore merit closer attention by researchers. Our approach is based on the premise that in order to make accurate judgments and recommendations about labor relations phenomena, we must first understand the variables that

shape labor relations events and the implications of altering one or more of these variables. Consequently, we stress the need for an overall conceptual framework for analyzing, interpreting, and placing in perspective the many interrelated aspects of a collective bargaining system.

The material in the following chapters is organized within the context of the overall analytical framework presented here, and is intended to introduce the reader to collective bargaining in government. In each chapter, we first try to outline the central issues of interest that have been identified either by researchers or by practitioners. In a research sense, this amounts to identifying the major dependent variables in each area. Second, we attempt to specify, where appropriate or possible, the underlying factors that shape these events; that is, we outline the explanatory or independent variables that have been identified in each area. Third, we attempt to identify important public policy issues in each area. Fourth, we address the key decisions that unions and employers must make in meeting the challenges facing them in each of the areas. Finally, we offer a summary assessment of the current state of knowledge and research in each area, along with a suggested agenda for future research and discussion. Thus, while a rich blend of conceptual, policy, and descriptive material is included in this book in order to give the reader a balanced exposure to the field, the text and readings also reflect our goal of advancing the state of research and thinking about public sector collective bargaining.

The three core concepts in the framework used to organize the material in this book are the environment or context of union–management relations, the nature of the bargaining process, and the outcomes or impacts of that process. This general conceptual framework is portrayed in figure 1–1. We will briefly outline the substance of these concepts in order to set the stage for the chapters to follow.⁵

We begin by examining the environmental contexts of the bargaining process. In the private sector, the role of the economic environment has been

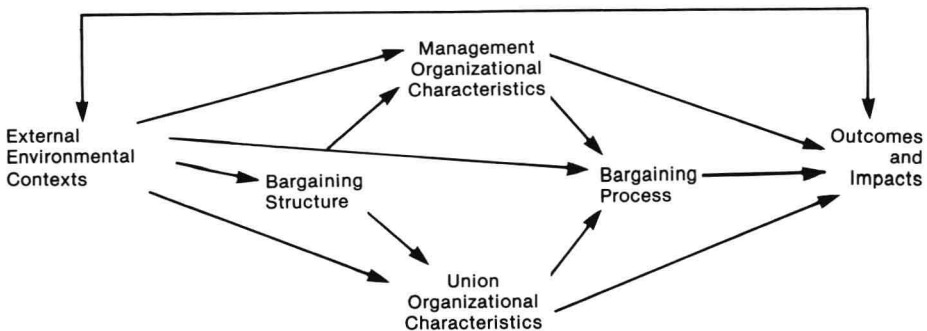


Figure 1–1. The Conceptual Framework

extensively analyzed, both theoretically and empirically. Product and labor market constraints, employer ability to pay, labor costs as a percentage of total costs, demand elasticities, and the like have all played a prominent role in explaining the behavior of the parties in bargaining and the outcomes of the bargaining process. Consequently, it behooves us to examine the nature of the economic context of bargaining in the public sector.

The legal environment—that is, public policy—has also been assigned an important role in studies of private sector collective bargaining. In public sector bargaining research, however, the role of public policy occupies an even more prominent place, largely because of the diversity of federal, state, and local policies in this area. This diversity provides a potential laboratory for debate, experimentation, and evaluation of policy alternatives. Consequently, we will examine the nature and development of the diversity of policy frameworks for bargaining in government, and will attempt to place the role of public policy in a broader perspective.

The evolution of bargaining in the public sector has forced both researchers and practitioners to pay greater attention to the role of the political environment in which bargaining takes place. Although the notion that the political context plays a role in shaping the behavior of the parties to bargaining is certainly not new, the fact that the public employer—in contrast to the private employer—is primarily a political institution has markedly increased the attention given to this aspect of the environment. We believe that the political nature of government is the key feature from which flow most of the important differences between public and private sector labor relations. Hence, the readings throughout the book reflect our belief in the centrality of this aspect of the bargaining environment.

In the past few years, labor and management professionals have become increasingly aware of the impacts that shifts in the demographic makeup of society exert on their bargaining relationships. The declining enrollments in public schools (which may be reversed in the 1990s); the economic resurgence of the northeastern states and economic stagnation of some Sunbelt states; and the changing racial and ethnic composition of urban areas, especially those where new immigrants congregate, have altered the demand for public services, influenced the resources available for collective bargaining, and increased the importance of the human resource and productivity provisions found in bargaining agreements. Therefore, we will treat these demographic characteristics as an additional dimension of the environment and discuss their impacts on collective bargaining in government.

From our treatment of the environmental contexts, we move inward to the structural and organizational factors that are important to understanding the nature of the bargaining process and bargaining outcomes in the public sector. The concept of *bargaining structure* has generally been treated in private sector research by addressing the question of the appropriate

bargaining unit. This overall policy issue can be broken down into three questions:

1. What is the impact of centralized versus decentralized bargaining structures?
2. What is the impact of broad versus narrow bargaining units?
3. What is the appropriate bargaining status for supervisory and managerial employees?

Most of the research in the public sector has ignored the first question, principally because there has been very little experience in state and local governments with centralized (multiemployer or coalitional) bargaining structures. The second question is especially relevant, however, for those states and cities that have multiple sets of bargaining units and that maintain personnel and budget-making policies that cut across these units. Consequently, we will examine the advantages and disadvantages of alternative ways of structuring bargaining relationships. Because of the belief that supervisors in the public sector differ in their functions and responsibilities from their private sector counterparts, controversy persists over the appropriate bargaining rights for public sector supervisors. We will examine these arguments and, again, seek to identify the relevance of alternative policy options for the process and outcomes of bargaining.

The importance of the employer's organizational characteristics in shaping the process and outcomes of bargaining has received more attention in the public than in the private sector. Most of the literature has focused on the difficult problem of adapting governmental structures and decision-making processes to the requirements of collective bargaining. Although this is a problem that faces all employers when bargaining arrives on the scene, the political nature of public employers and the traditions of separation of powers, representative government, and multiple points of access to decision makers increase the magnitude of the problem for the public employer. For example, there is no objective formula by which a city government can decide how much of a voice in labor relations matters should be given to the mayor, the city council, the city attorney, the civil service commission, and so on. In fact, for many public jurisdictions during the initial period of bargaining, the most important problem may be deciding who is the employer for labor relations purposes. Experience has also shown that this is not just a transitory problem that withers away as the bargaining relationship matures. Instead, the question of who has the power to speak for and commit management to a decision in public sector bargaining continues to be a "normal" part of the politics of the decision-making process. Consequently, most of the material dealing with management as an actor in collective bargaining focuses on these types of problems and their impacts on bargaining process and outcomes.

The labor relations context and bargaining structure materials in chapters 2 and 3 set the stage for analyzing the more visible of our three core concepts: the characteristics of the bargaining process itself, including the resolution of negotiating impasses and the outcomes or impacts of bargaining. We introduce the material on the interaction process in chapter 4 by reviewing some of the bargaining process concepts that are found in the private sector literature. Then we suggest how some of these notions need to be adapted to be consistent with the bargaining process that is evolving in public jurisdictions in the United States. Specifically, we focus on the notion that, in contrast to the bilateral paradigm of the private sector, bargaining in the public sector tends to take on multilateral characteristics because of the numerous management interests and the political nature of the public employer. Next we examine how the bargaining process becomes transformed as the scope of issues discussed broadens to include those of interest not only to public employees and their employers, but to other groups in the community as well.

Because the function of the negotiations process is to resolve differences between employers and employees, we devote a substantial portion of our analysis of the bargaining process to the means used in the public sector to accomplish this end. Thus, in chapter 5 we examine the legal status and the normative arguments regarding the right to strike as well as the procedural mechanisms—mediation, fact-finding, and various forms of arbitration—that have been used to resolve negotiating disputes. In particular, we focus on the compatibility—or lack of it—between the incentives to engage in good faith bargaining and the availability of various impasse procedures.

The research on alternatives for resolving negotiation impasses provides a logical link to an analysis of the final set of dependent variables in our framework—namely, the outcomes and impacts of bargaining. Ultimately, policymakers, union and management practitioners, and researchers must struggle with two general questions in this area:

1. What determines the kinds of outcomes that are achieved in bargaining in the public sector?
2. What are the impacts of these outcomes on the goals of the parties and the larger society?

In this section we will not only examine the traditional impact-of-wages research, but will also discuss and include in the text studies that attempt to isolate the determinants of both wage and nonwage bargaining outcomes within a unionized context. This second approach essentially investigates the environmental, structural, organizational, and procedural factors that determine variations in outcomes under collective bargaining. The material in chapters 6 and 7 further illuminates the diversity of impacts and outcomes across thousands of bargaining relationships and underscores the difficulty of assigning proof of causality to particular independent variables.

Our final chapter features a look backward at the earlier chapters with an eye toward evaluating the state of public sector bargaining research. In chapter 8 we ask, “What have we learned from all of this research, what have we yet to learn, and how can we narrow the gaps in existing knowledge?” We close our reading material by discussing the implications that public sector research and practice may have for the study and practice of collective bargaining in general.

In the supplementary material at the end of this book, we attempt to go beyond the usual book of text and readings by providing readers with opportunities to get their feet wet. Specifically, we have included a negotiation exercise involving a city government and a police union and a grievance arbitration case set in a public school district. The exercise and the case enable students to apply some of the conceptual material presented in this book to the experiences of negotiating a new public sector labor agreement and resolving a dispute that arises out of the interpretation of an existing labor agreement.

The Authors’ Perceptions

Since our interpretation and analysis of the issues examined in this book will be affected by our values and by our views of the current stage of development of public sector collective bargaining, we owe the reader a sketch of our perceptions of the governmental labor relations arena, circa 1987. At a basic level, we are committed to the right of public employees to form, join, and involve themselves in unions in order to participate via collective bargaining and other political processes in decisions that affect their work lives. For more than fifty years, the bedrock principle of our national labor policy has been that private sector employees have the right to participate in an organized manner in the decisions that affect their employment. We have yet to encounter any compelling reasons that public employees should not also enjoy similar rights. Therefore, this book contains very little material dealing with the appropriateness of collective bargaining for public employees⁶ but, rather, contains a great deal of material dealing with the appropriate shape of public sector collective bargaining systems.

We currently see public sector bargaining moving toward a third phase or generation of development. Compared to the first two developmental phases, the third generation is characterized by five interrelated factors:

1. A mixed economic environment that features some elements of fiscal strain and some elements of economic expansion.
2. A mixed political environment in which some governments are characterized by aggressive managements, others by aggressive unions.