

COLLECTIVE BARGAINING

DECEMBER 8, 1983

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STATEMENT BY THE LEGISLATIVE ANALYST  
TO THE  
ASSEMBLY COMMITTEE ON PUBLIC EMPLOYEES AND RETIREMENT  
AND  
THE SENATE COMMITTEES ON GOVERNMENTAL ORGANIZATION AND PUBLIC EMPLOYMENT  
AND RETIREMENT  
Sacramento, California  
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MR. CHAIRMEN AND MEMBERS

YOU HAVE ASKED ME TO APPEAR BEFORE YOU TODAY TO: 1. FURNISH INFORMATION ON THE BARGAINING PROCESS IN OTHER STATES, AND 2. ASSESS THE ROLE OF THE CALIFORNIA LEGISLATURE IN THE COLLECTIVE BARGAINING PROCESS COVERING STATE EMPLOYEES.

THE ISSUE OF COLLECTIVE BARGAINING IS ONE THAT CONTINUES TO CONCERN--AND PERPLEX--US. CONSEQUENTLY, I AM PLEASED BOTH TO SEE YOUR INTEREST IN THIS MATTER AND TO HAVE A CHANCE TO OFFER OUR COMMENTS ON IT.

I. METHODS USED TO COORDINATE COLLECTIVE BARGAINING WITH  
THE BUDGET PROCESS IN OTHER STATES

IN ORDER TO RESPOND TO THE FIRST PART OF YOUR REQUEST, WE REVIEWED THE APPROACHES TAKEN TO COLLECTIVE BARGAINING IN EIGHT LARGE INDUSTRIALIZED STATES WHICH HAVE HAD SEVERAL YEARS' EXPERIENCE WITH THE BARGAINING PROCESS. THESE STATES ARE: MASSACHUSETTS, MINNESOTA, NEW JERSEY, NEW YORK, OREGON, PENNSYLVANIA, WASHINGTON, AND WISCONSIN. THE CHART ATTACHED TO MY STATEMENT PROVIDES A SUMMARY DESCRIPTION OF THE BARGAINING PROCESS IN EACH OF THESE STATES. LET ME BRIEFLY DESCRIBE HOW THESE STATES COORDINATE THEIR BUDGETARY AND BARGAINING PROCESSES.

BUDGET TIME SCHEDULES

IN FIVE OF THE EIGHT STATES, THE LAW REQUIRES THAT THE NEGOTIATIONS PROCESS BE COORDINATED WITH THE BUDGET PROCESS. IN NEW YORK AND PENNSYLVANIA, AN IMPASSE CAN BE DECLARED IF NEGOTIATIONS BETWEEN LABOR AND MANAGEMENT ARE NOT CONCLUDED FOUR MONTHS PRIOR TO THE DATE ON WHICH THE GOVERNOR'S BUDGET MUST BE SUBMITTED TO THE LEGISLATURE. WHEN THIS OCCURS, THE LAW REQUIRES THAT MEDIATION AND FACT-FINDING BE USED IN AN ATTEMPT TO RESOLVE THE IMPASSE SO THAT THE COSTS OF AGREEMENTS REACHED BY THE TWO PARTIES CAN BE INCLUDED IN THE GOVERNOR'S BUDGET. OFFICIALS OF BOTH STATES, HOWEVER, REPORT THAT, DESPITE THE IMPASSE RESOLUTION PROCEDURES, AGREEMENT RARELY IS CONCLUDED IN TIME FOR COST ESTIMATES TO BE INCLUDED IN THE GOVERNOR'S BUDGET.

IN MASSACHUSETTS, THE LAW REQUIRES THAT NEGOTIATION MEETINGS BE HELD "IN ADVANCE OF THE EMPLOYER'S BUDGET MAKING PROCESS." OREGON'S LAW REQUIRES THE PARTIES TO "MAKE EVERY REASONABLE EFFORT" TO CONCLUDE NEGOTIATIONS BY THE TIME THAT THE LEGISLATURE ACTS ON THE BUDGET. IN WISCONSIN, THE LAW SPECIFIES THAT THE NEGOTIATION AND APPROVAL OF COLLECTIVE BARGAINING AGREEMENTS SHOULD COINCIDE WITH THE OVERALL FISCAL PLANNING PROCESS OF THE STATE, AND THAT AGREEMENTS MUST COINCIDE WITH THE FISCAL PERIOD OR BIENNIUM.

#### COORDINATING STRUCTURES

OF THE EIGHT STATES, ONLY TWO--MINNESOTA AND WISCONSIN--HAVE FORMAL ORGANIZATIONAL STRUCTURES THAT ENABLE THE LEGISLATURE TO FULFILL ITS ROLE IN THE BARGAINING PROCESS. BOTH STATES HAVE ESTABLISHED SPECIAL JOINT COMMITTEES, CONSISTING OF THE LEGISLATIVE LEADERS AND CHAIRPERSONS OF THE FISCAL COMMITTEES, TO HEAR AND ACT ON PROPOSALS INTRODUCED IN ORDER TO

IMPLEMENT COLLECTIVE BARGAINING AGREEMENTS. MINNESOTA USES ITS JOINT COMMITTEE TO APPROVE AGREEMENTS WHICH ARE REACHED WHEN ITS LEGISLATURE IS OUT OF SESSION. OFFICIALS IN BOTH OF THESE STATES APPEAR TO BE VERY SATISFIED WITH THIS APPROACH.

MECHANISM FOR APPROPRIATING FUNDS TO IMPLEMENT AGREEMENTS.

THE STATES IN OUR SAMPLE USE THREE BASIC APPROACHES TO APPROPRIATE THE FUNDS NEEDED TO IMPLEMENT COLLECTIVE BARGAINING AGREEMENTS. FOUR STATES--MINNESOTA, NEW JERSEY, OREGON AND PENNSYLVANIA--USE THE BUDGET BILL FOR THIS PURPOSE. IN NEW JERSEY, THE GOVERNOR PROPOSES IN THE BILL AN AMOUNT FOR EMPLOYEE COMPENSATION. AS A RULE, THE BUDGET IS SUBMITTED TO THE LEGISLATURE BEFORE NEGOTIATIONS ARE CONCLUDED. THE LEGISLATURE NORMALLY CONSIDERS THE APPROPRIATION REQUESTS WITHOUT REFERENCE TO THE AGREEMENTS. DEPARTMENTS AND AGENCIES AFFECTED ARE REQUIRED TO ABSORB ANY COSTS THAT EXCEED THE AMOUNT APPROPRIATED IN THE EMPLOYEE COMPENSATION ITEM. OREGON USES THE EMPLOYEE COMPENSATION ITEM TO FUND THE COSTS RESULTING FROM AGREEMENTS REACHED WHILE THE LEGISLATURE IS IN SESSION. IF, INSTEAD, AN AGREEMENT IS REACHED WHEN THE LEGISLATURE IS OUT OF SESSION, FUNDING IS PROVIDED FROM THE STATE'S EMERGENCY FUND. THIS FUND IS CONTROLLED BY THE EMERGENCY BOARD, A UNIQUE LEGISLATIVE ENTITY THAT CONTROLS MOST STATE EXPENDITURES WHEN THE LEGISLATURE IS NOT IN SESSION.

THE LEGISLATURES IN TWO STATES--MASSACHUSETTS AND NEW YORK--ENACTS SEPARATE LEGISLATION TO APPROPRIATE THE FUNDS NEEDED TO IMPLEMENT COLLECTIVE BARGAINING AGREEMENTS. UNDER MASSACHUSETTS LAW, WHENEVER THEY DO NOT CONCLUDE NEGOTIATIONS IN TIME FOR A LEGISLATIVE APPROPRIATION, THEY MUST WAIT UNTIL THE NEXT SESSION OF THE LEGISLATURE TO OBTAIN FUNDING FOR THE PROVISIONS CONTAINED IN THE AGREEMENT.

THE WISCONSIN LEGISLATURE USES A THIRD APPROACH TO FUND COLLECTIVE BARGAINING AGREEMENTS. THE LEGISLATURE APPROPRIATES AN UNSPECIFIED AMOUNT IN THE BUDGET BILL TO PROVIDE THE FUNDING REQUIRED TO IMPLEMENT THE AGREEMENT. THE ACTUAL APPROVAL OF THE NEGOTIATED AGREEMENTS, AND THUS THE CONTROL ON THE LEVEL OF EXPENDITURES, IS PROVIDED IN THE FORM OF "FISCAL NOTES" ATTACHED TO SEPARATE LEGISLATION.

LET ME NOW TURN TO THE SECOND PART OF YOUR REQUEST, WHICH INVOLVES THE CALIFORNIA LEGISLATURE'S ROLE, IN THE COLLECTIVE BARGAINING PROCESS FOR THE STATE'S EMPLOYEES.

## II. ROLE OF THE CALIFORNIA LEGISLATURE IN COLLECTIVE BARGAINING

AT THE PRESENT TIME, THE LEGISLATURE HAS THREE MAIN FUNCTIONS WITH REGARD TO THE PROCESS FOR SETTING THE TERMS AND CONDITIONS OF STATE EMPLOYMENT.

- o FIRST, THE LEGISLATURE HAS AN OVERSIGHT ROLE WITH REGARD TO THE STATE EMPLOYER-EMPLOYEE RELATIONS ACT (SEERA). AS IT GAINS EXPERIENCE WITH THE ACT, THE LEGISLATURE MAY CHOOSE TO MAKE CHANGES IN THE LAW IN ORDER TO INCREASE ITS EFFECTIVENESS.
- o SECOND, THE LEGISLATURE CONSIDERS LEGISLATION WHICH AFFECTS THE TERMS AND CONDITIONS OF STATE EMPLOYMENT. IN SOME CASES, THIS LEGISLATION IS NEEDED TO IMPLEMENT THE PROVISIONS OF A NEGOTIATED AGREEMENT (FOR EXAMPLE, UNDER SEERA, THE LEGISLATURE MUST IMPLEMENT ANY NEGOTIATED CHANGES IN RETIREMENT BENEFITS). IN OTHER CASES, THE LEGISLATION MAY MAKE UNILATERAL CHANGES IN

EMPLOYEE BENEFITS, WAGES, AND WORKING CONDITIONS, EVEN THOUGH THESE ISSUES ARE BARGAINABLE AND COULD BE LEFT TO THE PARTIES TO RESOLVE AT THE BARGAINING TABLE.

- o FINALLY, AND MOST IMPORTANTLY, UNDER THE PROVISIONS OF SEERA THE LEGISLATURE, MUST APPROVE THOSE PROVISIONS IN A MEMORANDUM OF UNDERSTANDING (MOUs) WHICH REQUIRE THE EXPENDITURE OF FUNDS. THIS REQUIREMENT WAS WRITTEN INTO SEERA BY THE LEGISLATURE PRESUMABLY TO MAINTAIN ITS CONTROL OVER EXPENDITURES, AS WELL AS THE SPECIFIC STATE PERSONNEL POLICIES, EVEN WHILE IT DELEGATES TO THE GOVERNOR THE RESPONSIBILITY FOR BARGAINING TO REACH AGREEMENT WITH THE EXCLUSIVE REPRESENTATIVES OF STATE WORKERS.

IT IS THIS THIRD FUNCTION--THE APPROVAL OF MOU PROVISIONS REQUIRING THE EXPENDITURE OF FUNDS--THAT THE BALANCE OF MY TESTIMONY ADDRESSES.

LEGISLATIVE REVIEW OF MOU PROVISIONS TO DATE

DURING THE FIRST TWO YEARS IN WHICH BARGAINING TOOK PLACE UNDER SEERA--1982 AND 1983--THE LEGISLATURE WAS NOT GIVEN AN OPPORTUNITY TO CONDUCT A MEANINGFUL REVIEW OF MOUs PRIOR TO APPROVING THEM. IN FACT, NOT ONE OF THE MOUs SIGNED IN EITHER YEAR WAS AVAILABLE TO THE LEGISLATURE OR ITS STAFF FOR REVIEW PRIOR TO WHEN THE LEGISLATURE HAD TO GRANT ITS APPROVAL IN ORDER FOR THE AGREEMENTS TO TAKE EFFECT AS SCHEDULED. INSTEAD, APPROVAL IN SOME CASES WAS GRANTED ON THE BASIS OF A ONE-PAGE SUMMARY OF WHAT THE ADMINISTRATION MAINTAINED WERE THE MAJOR FISCAL PROVISIONS.

UNDER THESE CIRCUMSTANCES, THE LEGISLATURE'S ABILITY TO MAINTAIN CONTROL OVER STATE EXPENDITURES, AS WELL AS OVER THE TERMS AND CONDITIONS OF STATE EMPLOYMENT, IS A FAR CRY FROM WHAT MAY HAVE BEEN INTENDED BY THE

LEGISLATURE WHEN IT ENACTED SEERA. THE APPROVAL OF MOU PROVISIONS, AS REQUIRED BY SEERA BECOMES A PRO FORMA EXERCISE.

TO THE EXTENT THE LEGISLATURE IS NOT ABLE TO UNDERTAKE A MEANINGFUL REVIEW OF THE MOUs, IT WILL ENCOUNTER PROBLEMS. SPECIFICALLY, WITHOUT ADEQUATE LEGISLATIVE REVIEW:

- o THE FULL COSTS OF THE MOUs MAY NOT BE IDENTIFIED. FOR EXAMPLE, SUBSEQUENT TO LEGISLATIVE APPROVAL OF THE CURRENT CONTRACT COVERING THE CALIFORNIA DEPARTMENT OF FORESTRY EMPLOYEES ASSOCIATION WE FOUND THAT THE CONTRACT PROVIDES FOR MORE THAN 1000 CALIFORNIA DEPARTMENT OF FORESTRY EMPLOYEES TO RECEIVE A 7.5 PERCENT SALARY INCREASE DURING NONFIRE MISSION PERIODS. DESPITE ITS \$700,000-TO-\$800,000 PRICE TAG, THIS PROVISION WAS NEVER BROUGHT TO THE LEGISLATURE'S ATTENTION BEFORE IT WAS APPROVED.
  - o "ABSORBABLE" COSTS MAY BE FUNDED AT THE EXPENSE OF LEGISLATIVE PRIORITIES. AS WE DEMONSTRATED IN OUR ANALYSIS OF THE GOVERNOR'S BUDGET FOR THIS YEAR, STATE AGENCIES WERE REQUIRED TO "ABSORB" \$61 MILLION IN COSTS RESULTING FROM MOUs NEGOTIATED DURING 1982. CLEARLY, COSTS OF THIS MAGNITUDE CANNOT BE "ABSORBED" WITHOUT CUTTING BACK AGENCY ACTIVITIES IN OTHER AREAS. CONSEQUENTLY, IT IS LIKELY THAT IN ORDER TO ABSORB THESE COSTS THE AGENCIES WERE FORCED TO REDUCE ACTIVITIES BELOW THE LEVELS FUNDED BY THE LEGISLATURE. IN OTHER WORDS, THE BENEFITS AGREED TO BY THE ADMINISTRATION MAY COME AT THE EXPENSE OF LEGISLATIVE PRIORITIES.

- o THE LEGISLATURE WILL HAVE NO OPPORTUNITY TO COMPARE THE PROVISIONS OF MOUs FOR CONSISTENCY. TO THE EXTENT THE MOUs APPROVED BY THE LEGISLATURE PROVIDE SOME EMPLOYEES IN UNITS WITH BENEFITS THAT ARE NOT PROVIDED TO EMPLOYEES IN OTHER UNITS, STATE PROGRAMS MAY BE DISRUPTED AND THE LEGISLATURE MAY FIND ITSELF THE TARGET OF CRITICISM FROM THE EMPLOYEES WHO COME UP SHORT.
- o THE LEGISLATURE WILL HAVE NO CHANCE TO REVIEW LONG-TERM COMMITMENTS WHICH THEY WILL BE EXPECTED TO FUND IN FUTURE YEARS. WITHOUT COPIES OF THE MOUs AND ENOUGH TIME TO COMPLETE AN ADEQUATE REVIEW, THE LEGISLATURE HAS ALREADY APPROVED CONTRACTS WHICH CALL FOR SPECIAL ADJUSTMENTS TO BASE SALARIES PAID SOME EMPLOYEES BEGINNING IN THE SECOND YEAR OF THE CONTRACT.
- o FINALLY AND MOST OBVIOUSLY, THE LEGISLATURE WILL NOT BE ABLE TO CONFIRM THAT THE COSTS OF MOUs FALL WITHIN THE AMOUNT APPROPRIATED FOR EMPLOYEE COMPENSATION. THE LEGISLATURE CAN ASSESS THE CONSISTENCY OF MOUs WITH THE AMOUNT APPROPRIATED FOR EMPLOYEE COMPENSATION ONLY AFTER-THE-FACT.

THERE IS NO DOUBT IN MY MIND THAT THESE PROBLEMS WILL CONTINUE TO ARISE YEAR-AFTER-YEAR, IF THE LEGISLATURE'S OPPORTUNITY TO REVIEW--NOT JUST APPROVE--MOUs IS CUT SHORT.

THESE PROBLEMS CAN BE MINIMIZED, AND I WILL LIST SOME OPTIONS FOR DOING SO IN A MOMENT. BEFORE TACKLING THESE PROBLEMS, HOWEVER, THE LEGISLATURE NEEDS TO MAKE A BASIC POLICY DECISION AS TO WHAT ROLE IT WANTS TO PLAY IN THE COLLECTIVE BARGAINING PROCESS.

THE LEGISLATURE MAY WISH TO LIMIT ITS ROLE SIMPLY TO CONTROLLING TOTAL EXPENDITURES IN THE BUDGET YEAR. IF THIS IS THE ROLE IT WISHES TO PLAY, THE EMPLOYEE COMPENSATION ITEM IN THE BUDGET BILL PROVIDES A REASONABLY EFFECTIVE MEANS FOR DOING SO. THIS IS NOT TO SAY, HOWEVER, THAT THE LEGISLATURE SHOULD NOT CONSIDER MAKING SOME CHANGES IN THE EXISTING COLLECTIVE BARGAINING PROCESS AT THE MARGIN. IF THE LEGISLATURE CHOOSES TO PLAY A MORE LIMITED ROLE, WE WOULD SUGGEST THAT IT ELIMINATE THE REQUIREMENT IN SEERA THAT IT APPROVE SPECIFIC PROVISIONS OF MOUs.

IF, INSTEAD, THE LEGISLATURE WISHES TO APPROVE THE SPECIFIC PROVISIONS OF MOUs--THE ROLE APPARENTLY ENVISIONED AT THE TIME SEERA WAS ENACTED--OR TO CONTROL TOTAL EXPENDITURES BEYOND THE BUDGET YEAR, FAR MORE DRAMATIC CHANGES IN THE EXISTING PROCESS WILL HAVE TO BE MADE. THIS PROCESS SIMPLY DOES NOT PROVIDE THE LEGISLATURE WITH AN OPPORTUNITY TO EXERCISE THESE POWERS IN A MEANINGFUL WAY.

AS I NOTED A MOMENT AGO, THIS IS A BASIC POLICY DECISION THAT YOU WILL HAVE TO MAKE. I SUSPECT THAT YOUR DECISION WILL REFLECT:

- o THE CONFIDENCE YOU HAVE IN THIS AND FUTURE ADMINISTRATIONS TO PERFORM THE ROLE YOU'VE DELEGATED TO THE GOVERNOR IN AN ACCEPTABLE MANNER.

- o THE TIME YOU ARE WILLING TO DEVOTE TO THE NEGOTIATING PROCESS.
- o THE EXTENT TO WHICH YOU WANT TO BE IDENTIFIED WITH THE SPECIFIC FEATURES OF NEGOTIATED SETTLEMENTS: AND
- o YOUR WILLINGNESS TO SET DEADLINES FOR THE COMPLETION OF NEGOTIATIONS AND MAKE THEM STICK.

ALTERNATIVES TO THE CURRENT PROCESS

I DO NOT PRESUME TO SUGGEST HOW YOU SHOULD DECIDE THIS EXTREMELY DIFFICULT ISSUE. IF, HOWEVER, YOU WISH TO PLAY A MORE ACTIVE ROLE IN THE BARGAINING PROCESS OR ADDRESS SOME OF THE PROBLEMS IDENTIFIED ABOVE, THERE ARE A NUMBER OF ALTERNATIVES TO THE CURRENT SYSTEM THAT YOU CAN CONSIDER. THESE ALTERNATIVES CAN BE DIVIDED INTO TWO CATEGORIES:

- o THOSE THAT RETAIN THE EXISTING SYSTEM
  - o THOSE THAT WOULD MAKE MAJOR CHANGES IN THE EXISTING SYSTEM
- NONE OF THESE APPROACHES, HOWEVER, REPRESENTS A PANACEA FOR THE

PROBLEMS WE'VE IDENTIFIED. THEREFORE, WE SIMPLY OFFER THEM FOR YOUR CONSIDERATION, WITHOUT RECOMMENDING ANY ONE IN PARTICULAR.

A. MODIFICATIONS TO THE EXISTING PROCESS:

- o LEGISLATIVE MONITORING OF NEGOTIATIONS. THE LEADERS OF THE LEGISLATURE COULD DESIGNATE REPRESENTATIVES TO ATTEND NEGOTIATIONS INVOLVING STATE EMPLOYEES. THIS WOULD PREVENT LAST-MINUTE SURPRISES WHEN THE MOUs ARE PRESENTED TO THE LEGISLATURE.
- o REQUIRE MOUs TO BE SUBMITTED BY MAY 15. THE LEGISLATURE, OF COURSE, WOULD HAVE A GREATER OPPORTUNITY TO CONSIDER AND ACT UPON THE PROVISIONS OF MOUs IF THEY WERE AVAILABLE FOR REVIEW AS PART OF THE BUDGET PROCESS. AS THE EXPERIENCE OF OTHER STATES HAS

DEMONSTRATED, HOWEVER, IT IS DIFFICULT TO COMPEL THE PARTIES TO CONCLUDE NEGOTIATIONS BY A FIXED DATE IF "LATE" DECISIONS WILL STILL BE CONSIDERED BY THE LEGISLATURE. IN THE CASE OF A MAY 15 DEADLINE, THE PARTIES UNDOUBTEDLY WOULD RECOGNIZE THAT MOST IMPORTANT BUDGETARY DECISIONS ARE MADE BY THE BUDGET CONFERENCE COMMITTEE AT A LATER DATE.

- o REQUIRE MOUs TO BE SUBMITTED BY JUNE 30, AND BECOME EFFECTIVE OCTOBER 1. IF THIS ALTERNATIVE WERE ADOPTED, LEGISLATIVE STAFF WOULD HAVE TIME TO REVIEW THE AGREEMENTS DURING THE SUMMER RECESS AND THE LEGISLATURE COULD THEN CONSIDER AND APPROVE THEM IN LATE AUGUST OR SEPTEMBER. AGAIN, HOWEVER, THE PROBLEM OF COMPELLING COMPLIANCE WITH AN ARBITRARY DEADLINE WOULD REMAIN.
  - o PROVIDE LEGISLATIVE GUIDANCE AT AN EARLIER DATE. A JOINT COMMITTEE COULD--THROUGH A RESOLUTION--PROVIDE THE PARTIES WITH A SENSE OF LEGISLATIVE PRIORITIES ON PERSONNEL NEEDS AND PERSONNEL POLICY FOR THE UPCOMING YEAR.
- B. MAJOR CHANGES TO THE EXISTING PROCESS
- o DELAY THE ONSET OF BARGAINING UNTIL THE AMOUNT AVAILABLE FOR ENHANCING EMPLOYEE WAGES, BENEFITS, AND WORKING CONDITIONS HAS BEEN DECIDED. IN THIS CASE, NEGOTIATIONS WOULD OCCUR DURING THE FALL--AFTER AN AMOUNT FOR EMPLOYEE COMPENSATION HAS BEEN DETERMINED. THE EFFECTIVE DATE OF THE NEW MOUs WOULD ALSO BE DELAYED UNTIL, SAY, FEBRUARY 1. THIS WOULD GIVE THE LEGISLATURE AN OPPORTUNITY TO REVIEW AND APPROVE THE MOUs UPON ITS RETURN IN JANUARY.

- o REQUIRE BARGAINING TO BEGIN IN THE FALL AND CONCLUDE BEFORE THE BUDGET PROCESS BEGINS. IF THIS WERE THE CASE, THE AMOUNT OF FUNDS NEEDED TO IMPLEMENT THE AGREEMENTS COULD BE INCLUDED IN THE GOVERNOR'S BUDGET IN JANUARY. THIS WOULD ALLOW FULL LEGISLATIVE REVIEW AND APPROVAL OF THE MOUs PRIOR TO THE START OF THE NEW FISCAL YEAR.
- o FUND MOUs THROUGH SPECIAL LEGISLATION. THIS ENABLES THE USE OF LEGISLATIVE COMMITTEES TO REVIEW THE TERMS OF NEGOTIATED SETTLEMENTS. THE SPECIFIC TERMS, HOWEVER, WOULD HAVE TO BE AVAILABLE FOR LEGISLATIVE REVIEW. (THE LEGISLATURES IN NEW YORK AND MASSACHUSETTS UTILIZE THIS APPROACH.)
- o CREATE A SPECIAL JOINT COMMITTEE. THE COMMITTEE WOULD MONITOR NEGOTIATIONS AND/OR REVIEW AND APPROVE MOUs. THIS APPROACH WHICH WOULD PROBABLY REQUIRE THE MOST LEGISLATIVE INVOLVEMENT IN THE BARGAINING PROCESS IS SIMILAR TO THAT TAKEN BY THE LEGISLATURES IN WISCONSIN AND MINNESOTA.

#### CONCLUSION

IN CONCLUSION, LET ME REPEAT THAT THE ALTERNATIVES WE HAVE IDENTIFIED ARE PRESENTED ONLY FOR YOUR CONSIDERATION, NOT AS RECOMMENDATIONS. ANY ACTION YOU TAKE SHOULD DEPEND ON BOTH YOUR PERCEPTION OF THE SERIOUSNESS AND PERSISTENCY OF THE PROBLEMS EXPERIENCED TO DATE, AND MORE IMPORTANTLY, ON THE ROLE YOU WANT THE LEGISLATURE TO PLAY IN THE COLLECTIVE BARGAINING PROCESS.

Table 1  
Summary: Interstate Comparison of State Employee Collective Bargaining Laws

Feature	States			
	Massachusetts	Minnesota	New Jersey	New York
Year of Enabling Legislation	1973	1971	1968	1967
Scope of Bargaining	Wages, hours, standards-of performance and other terms and conditions of employment	Wages, hours, and other terms and conditions of employment excluding <u>retirement and personnel policies</u>	Grievance procedures, terms and conditions of employment	Wages, hours, grievance procedures and other terms and conditions of employment
Policy on Strikes	Prohibited	Prohibited for essential employees, and allowed for nonessential employees (under specified conditions).	Prohibited	Prohibited
Impasse Procedures	Mediation, fact-finding	Mediation; arbitration is mandatory for essential employees and voluntary for nonessential employees	Mediation, fact-finding and voluntary arbitration	Mediation, fact-finding
Budget Period	Annual (July 1 to June 30)	Biennial (July 1 beginning in odd year to June 30 next odd year)	Annual (July 1 to June 30)	Annual (April 1 to March 31)
Date Governor's Budget Submitted to Legislature	Early January	February	Late January	Early January
Statutory Bargaining Deadlines to Coordinate Collective Bargaining with Budget Process	Must begin bargaining in advance of budget-making process	None	None	Impasse Procedures may be invoked if disputes are not settled 120 days (about Dec. 1) prior to end of fiscal year
Legislative Role in Collective Bargaining Process	Appropriates funds and changes law to implement agreements	Appropriates funds and reviews and approves agreements	Appropriates funds and change laws to implement agreements	Appropriates funds and changes laws to implement agreements
Formal Legislative Organization to Review Provisions of Agreement	None	Joint Legislative Commission to review and approve agreements and serve as a legislative liaison	None	None
Legislative Mechanism for Appropriating Funds to Implement Provisions of MOUs	Special Legislation	Budget Bill	Budget Bill	Separate Legislation

Table 2  
Summary: Interstate Comparison of State Employee Collective Bargaining Laws

Legislative Analyst  
December 8, 1983

409

Feature	States			
	Oregon	Pennsylvania	Washington	Wisconsin
Year of Enabling Legislation	1963 (Revised 1979)	1970	1967	1966
Scope of Bargaining	Direct and indirect monetary benefits, hours, sick leave, grievance procedures and other conditions of employment	Wages, hours, and other terms and conditions of employment, excluding retirement (which requires changes in statute)	Grievance procedures and personnel matters. wages, hours, and benefits are <u>excluded</u> from scope	Wages, hours, and conditions of employment, <u>excluding management rights, missions and goals of agency, and merit system</u>
Policy on Strikes	Prohibited for police and guard personnel; other public employees have right to strike when impasse procedures have been exhausted and when the strike does not pose a clear and present danger to public health	Prohibited for prison and mental hospital guards and court employees; allowed for other employees after mediation and fact-finding	Prohibited	Prohibited
Impasse Procedures	Mediation, fact-finding and voluntary arbitration for most public employees; compulsory and final arbitration for police and guards	Mediation, fact-finding, and arbitration; mandatory arbitration for prison and mental hospital guards, and court employees	Not applicable	Mediation and fact-finding
Budget Period	Biennial (July 1 beginning in odd year to June 30 next odd year)	Annual (July 1 to June 30)	Biennial (July 1 beginning in odd year to June 30 next odd year)	Biennial (July 1 beginning in odd year to June 30 next odd year)
Date Governor's Budget Submitted to Legislature	Early December	February	November	January
Statutory Deadlines to Coordinate Collective Bargaining with Budget Process	None	With no agreement after 21 days of negotiations or 150 days prior to budget submission date, Bureau of Mediation must be notified; with no agreement 130 days prior to budget submission date, Bureau of Mediation notifies Labor Relations Board. Fact-finding is optional and is rarely used	Not applicable	None
Legislative Role in Collective Bargaining Process	Appropriates funds and changes law to implement agreements	Appropriates funds and changes law	Appropriates funds	Appropriates funds and reviews and approves agreements
Formal Legislative Organization to Review Provisions of Agreement	None	None	None	Joint Committee on Employment Relations, which reviews and approves agreements and serve as a legislative liaison
Legislative Mechanism for Appropriating Funds to Implement Provisions of	Budget Bill item and Emergency Fund	Unspecified amount in Budget Bill	Not applicable	Unspecified amount in Budget Bill and separate legislation