Bargaining Law Traveled Mighty Rough Road

Almost two years ago a bill to expand and strengthen collective bargaining procedures for Oregon's public employes began the long journey to become law.

Along the way it traveled a mighty rough road, full of detours and blind alleys, but with a lot of help from its friends survived the trip to enter the state's law books on October 5.

The journey began early in 1972 when Gov. Tom McCall appointed a task force on Collective Bargaining in the Public Service. James A. Redden, Oregon's state treasurer, who at the time was chairman of the Public Employe Relations Board, was named to head the group.

The task force spent nearly a year holding hearings and drafting a proposed bill. It was submitted to the House of Representatives at the beginning of the 1973 legislative session where it was given a number--House Bill 2263--and referred to the Labor and Industrial Relations Committee on February 8.

A subcommittee spent nearly three months holding more hearings and working on the bill. It was sent to the House floor on May 4 with a "do pass" recommendation, and promptly ran into the first of many attempts to kill or seriously weaken the measure.

Rep. Lewis Hampton (R-Beaverton) was critical of the bill because it did not provide penalties for participation in prohibited strikes and because of its compulsory arbitration provisions. It also was attacked by Rep. Gary Wilhelms (R-Klamath Falls) because it permitted supervisors the option of joining other employes in the same bargaining unit.

Opponents attempted to refer the bill to the Local Government and Urban Affairs Committee, a "new committee." Rep. Albert Densmore (D-Medford), chairman of that committee, warned House members that sending the bill to his committee "might well be a vote to kill it." For reasons he cited the committee's heavy workload, the lateness of the session and the possibility of "adjournment fever."

The bill's opponents lost that maneuver when they were able to muster only 27 votes. After more debate, they moved to refer the bill back to the committee that had voted it out, the Labor and Industrial Relations Committee. The motion squeaked by on a 30-28 vote.

Back in committee the bill was amended to include a specified penalty for participation in prohibited strikes, which supporters of the original bill felt was unnecessary because failure to obey a court injunction against participating in a prohibited strike is an offense already covered by law.

Another amendment was put in the bill prohibiting supervisory employes from participating in collective bargaining.

Before the amended version of HB 2263 was voted out of the committee, however, opponents brought a substitute bill in the form of a "minority report" to the floor of the House.

The minority report weakened the original bill considerably. It was described by Rep. Larry Perry (D-Eugene), who headed the subcommittee that spent three months putting the bill together, as "not a true collective bargaining bill at all."

The minority report lost when 12 Republicans joined with 26 Democrats to defeat the measure. The next day, which was May 17, HB 2263 passed the House by a vote of 34-20.

The bill then went to the Senate where it was referred to the Labor Committee on May 21. That committee held additional hearings on the bill. One month later, on June 20, the committee sent the measure to the floor of the Senate with a "do pass" recommendation.

Another attempt to substitute a minority report for the committee report failed by a slim one-vote margin. Before a vote could be taken on the bill, however, it was referred back to the Labor Committee for additional amendments. Three days later it was sent back to the floor of the Senate for a vote.

Once again opponents of the measure attempted to substitute a minority report, and once again they failed, this time by a four-vote margin. The Senate then voted on the measure and passed it by a narrow 16-14 vote.

The House of Representatives concurred in the Senate amendments and repassed the measure on June 29, just eight days before final adjournment. Gov. Tom McCall signed the bill on July 21.

Shortly after being signed by the governor, three Republican Senators who fought the measure in the legislature--Anthony Meeker (R-Amity), Victor Atiyeh (R-Portland) and Robert Smith (R-Burns)--filed petitions seeking to refer the bill to the 1974 general election.

A ballot title prepared for referendum petitions by Attorney General Lee Johnson was challenged by Redden and six legislators who supported the bill during the session: Reps. Glen Whallon (D-Milwaukie), William Grannell (D-North Bend), Robert Elliott (R-Portland) and Perry, and Sens. Richard Groener (D-Milwaukie) and Keith Burns (D-Portland).

In a brief prepared by OSEA Executive Secretary Thomas C. Enright, who acted as legal counsel for the group, Johnson's ballot title was challenged as "insufficient and unfair" because it placed undue emphasis on strikes by public employes while it ignored many more important aspects of the bill and omitted mention of numerous restrictions the bill places on public employe strikes.

Oregon's Supreme Court agreed and ordered Johnson's ballot title thrown out. The court wrote and certified a new ballot title. That meant signatures already collected on referendum petitions containing the old ballot title had to be scrapped and new petitions prepared containing the court-approved title. It left supporters of the referendum drive only a month in which to gather the necessary 26,656 signatures.

October 4 was the deadline for filing signatures with the secretary of state. Apparently the referendum supporters were far short of the required amount because they didn't even bother filing any of their petitions. The next day, October 5, HB 2263 became law.

For an analysis of the law, please see pages 6 and 7.

PERB Nearly Buried in New Bargaining Work

Business has been picking up for the Public Employe Relations Board since Oregon's new collective bargaining law went into effect on October 5.

The PERB received 30 complaints in October, 44 in November, "and business has been good so far in December," according to Melvin H. Cleveland, the board's executive secretary.

The new law gives the board regulatory authority over collective bargaining activities in all governmental jurisdictions in Oregon. That includes state government, higher education, 36 counties, 236 cities, 350 school districts, 27 intermediate education districts, 13 community colleges and over 800 special districts.

"Our potential work load is pretty husky," Cleveland says. "We've averaged more than one complaint a day since the new law went into effect, and each one takes a lot of work."

Most of the complaints the board has received so far, he said, involve unfair labor practices, requests for clarification of bargaining units and determination of supervisory employes, and petitions requesting the board to hold representation elections.

To handle the increased work load, Cleveland has had to hire more staff, and that has forced the board to seek new offices. It has been headquartered in an old residence on the northern edge of the Capitol Mall since it began operation in 1969.

PERB's new offices will be located in the Capitol Tower building in downtown Salem. The staff will take up the entire third floor, and a hearings and conference room will be located on the 11th floor. Cleveland said he hopes to be in the new quarters by February 1.

So far the board has hired two new examiners, a mediator and two secretary-reporters. The examiners are Roy Edwards, a Portland attorney who recently retired from the U. S. Air Force, and Darryl Smith, a former Personnel Division attorney. The mediator is John Vale, former executive secretary of the Oregon School Employes Association and personnel director for the Salem School District.

The new law increased the size of the PERB from three to five members. The two new members recently appointed by Gov. Tom McCall are Lyle Velure, a Medford attorney, and Marian Churchill, a Salem housewife. They join present board members J. W. Forrester, Jr., publisher of the Daily Astorian and Paul Bailey and William Lubersky, both Portland attorneys.

Cleveland said the board got a late start in preparing for the new law because it didn't pass until eight days before the session ended. By then it was too late for legislators to increase the agency's budget.

He went to the Emergency Board for more money shortly after the session ended, but by then a drive to refer the bill to the 1974 general election was under way. Legislators waited until the bill became law on October 5 before giving the PERB $200,000 to hire additional staff, buy equipment and seek new quarters.

The board sill needs more personnel, Cleveland said. He plans to go to the Emergency Board next month and ask for funds to hire another examiner, mediator and secretary-reporter.

Law Sets Forth New State Bargaining Policy

The 1973 legislature set forth a new public policy for collective bargaining by Oregon's public employes when it passed House Bill 2263.

That policy is outlined in section 2 of the bill. It says the "Legislative Assembly finds and declares" that:

(1) The people of this state have a fundamental interest in the development of harmonious and cooperative relationships between government and its employes.

(2) Recognition by public employers of the right of public employes to organize and full acceptance of the principle and procedure of collective negotiation between public employers and public employe organizations can alleviate various forms of strife and unrest. Experience in the private and public sectors of our economy has proved that unresolved disputes in the public service are injurious to the public, the governmental agencies, and public employes.

(3) Experience in private and public employment has also proved that protection by law of the right of employes to organize and negotiate collectively safeguards employes and the public from injury, impairment and interruptions of necessary services, and removes certain recognized sources of strife and unrest, by encouraging practices fundamental to the peaceful adjustment of disputes arising out of differences as to wages, hours, terms and other working conditions, and by establishing greater equality of bargaining power between public employers and public employes.

(4) The state has a basic obligation to protect the public by attempting to assure the orderly and uninterrupted operations and functions of government.

(5) It is the purpose of (this law) to obligate public employers, public employes and their representatives to enter into collective negotiations with willingness to resolve grievances and disputes relating to employment relations and to enter into written and signed contracts evidencing agreements resulting from such negotiations. It is also the purpose of (this law) to promote the improvement of employer-employe relations within the various public employers by providing a uniform basis for recognizing the right of public employes to join organizations of their own choice, an to be represented by such organizations in their employment relations with public employers.