Q & A: The Taylor Law

What is the Taylor Law?

The Public Employees Fair Employment Act (Taylor Law), passed in 1967, oversees public employee labor relations in New York State, and has had a profound effect on the way that public school districts and their employees interact. Changes in the Taylor Law since 1967 have consistently provided more negotiating power for bargaining units.

What are the Taylor Law's major provisions?

All NYS public employees may organize into units and negotiate employment agreements with their public employers, who are obligated to bargain with them on conditions of employment.

Employee units may vote to be members of state or national unions.

Employees cannot be forced to join a union, but the union must represent them. Any contract negotiated between the unit and its employer includes all employees, even non-union members.

The Taylor Law requires public employers and their employees to meet at reasonable times to bargain in good faith, but establishes no time frame or obligation for a final agreement.

In return for these benefits, public employees may not strike.

What do public employers gain from the Taylor Law?

Public employees are prohibited from striking. A penalty calls for the loss of two days' pay for every day on strike (two-for-one penalty). The actual penalty is the loss of one day's pay; the other day of lost income is the result of no work being done on that day.

A district affected by a strike must petition the court for an injunction against its teachers and their union for violating the Taylor Law. If employees do not heed the court, it may impose fines or jail sentences. A strike is misconduct; a public employer may remove/discipline an employee for misconduct.

What is the Triborough Amendment?

The Triborough Amendment to the Taylor Law provides that all terms and conditions and provisions of an expired public employee contract remain in effect until a new contract is approved. And if the expired contracts contain provisions for automatic salary increases, such increases continue without a new contract. In difficult economic times, when a new contract would likely offer less attractive salaries and benefits, public employee unions have little or no incentive to agree to new contracts.

What are mandatory subjects of negotiation?

Teacher evaluation procedures
Wages and hours, including length of work year
Sabbatical leaves
Promotion procedures for unit employees
Impact on unit members of reduction in work-force
Impact of modification of class size
Tours of duty (district may unilaterally determine the number of employees required to be on duty at specified periods of time)
Subcontracting
Parking fees at work locations controlled by the employer.

What are NON-mandatory subjects of negotiation?

Policies and mission of district
Budget cuts and resultant decision to reduce work-force
Numerical limitations on class size
Staffing levels
Promotion policy for job titles not within the negotiating unit
Initial employment qualifications
Employee demands—

> That the work force not be reduced except by attrition or disciplinary charge;
> That supervisors be of specified rank or grade; Seminars or conferences at which attendance is not compulsory.

What does the Taylor Law identify as IMPROPER PRACTICES?

BY EMPLOYERS:

Interfering with, restraining, coercing public employees as they form or participate in any employee organization;
Dominating or interfering with employee organizations;
Discriminating against any employee because of participation in any employee organization; Refusing to negotiate in good faith;
Refusing to continue the terms of an expired agreement until a new one is reached, unless the union strikes.

BY EMPLOYEES:

Interfering with, restraining, coercing public employees as they exercise their right to participate or not in any employee organization;
Causing, or attempting to cause, a public employer to interfere with these employee rights; Breaching the duty of fair representation of all unit members;
Refusing to negotiate in good faith;
Striking.

SOURCE: What is the Taylor Law...and How Does It Work?, NYS Public Employment Relations Board, 1978. To learn more, go to the PERB website at http://www.perb.state.ny.us/stat.asp. Two reports on the cost and consequences of the Taylor Law can be accessed at: http://www.empirecenter.org/Special-Reports/2007/10/TaylorMadeReport.cfm and http://www.empirecenter.org/Special-Reports/2007/10/TaylorMadeReport2.cfm.

How is the Taylor Law administered?

The New York State Public Employment Relations Board (PERB) was created to administer the Taylor Law. PERB is governed by a three-member board appointed by the Governor with the consent of the NYS Senate.

What does PERB do?

PERB provides mediators to help resolve disputes between public employers and employees. PERB provides arbitration services upon request; but since both parties must agree to abide by an arbitrator's decision, and arbitrators have a long history of ruling in favor of employees, most employers avoid this step.
PERB adjudicates improper practice charges.
PERB determines culpability of employee organizations for striking.
PERB provides fact finding (third party examination of issues) services when parties cannot agree, but neither side is obligated to accept the recommendations.

How can a district remove a teacher with tenure?

Education Law § 3020-a governs the discipline of tenured teachers and administrators except superintendents. To fire a tenured teacher or administrator, a school board must prove one of the following:

* Immoral character	* Conduct unbecoming a teacher or administrator
* Incompetence	* Physical or mental disability
* Insubordination	* Neglect of duty
* Inefficiency	* Failure to maintain certification.

Although the process is costly, time-consuming, and unpredictable in results, a growing number of school districts are instituting the process to control the quality of their education program.

How does the 3020-a process work?

An employee who has been found guilty of a felony involving controlled substances or child abuse can be brought up on charges (and cannot be fired until the 3020-a process has resulted in a ruling in favor of removing the employee).

Hearings involve a single hearing officer (in pedagogy cases the employee may select to use a 3- member panel).

A pre-hearing conference must occur within 15 days after a hearing officer agrees to serve. The final hearing must occur within 60 days of the pre-hearing, and the decision must be rendered within 30 days of the final hearing.

If a board charge is deemed frivolous, the board may be required to reimburse the State Education Department and employee for all or some of the costs incurred.

A board must implement a decision within 15 days of receiving the hearing officer's report.

Decisions can be appealed to the NYS Supreme Court within 15 days of receiving the report.

RESULTS: In 1997, the average § 3020-a case took319 days to resolve and cost $112,492.