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A Stacked Deck Favors the Transit Union

When one party to a negotiation, because of law and prior experience, holds all the metaphorical high cards, it is child's play to predict who will come out on top in the bargaining process. Such is the current bargaining situation between the Port Authority and Local 85 of the Amalgamated Transit Union. On the morning of September 12, the board accepted a fact finder's recommendations for settling the contract dispute—recommendations that represent a minimum of what needs to happen. A few hours later the union rejected the fact finder's recommendations with comments suggesting it is not about to make the concessions called for in the report. And once again the union has won an important skirmish. Full operations continue and no job cuts have been made.

Here's the problem. Cumulative bargaining outcomes over several decades have produced a wage and benefit package for Local 85 workers that is unsurpassed in the United States. The package includes the highest cost-of-living adjusted driver wages in the nation, very early retirement opportunities, and lifetime health care benefits for retirees. In 2006, benefit payments amounted to 74 percent of wage and salary expenditures and have continued to rise. These extravagant costs, combined with inefficient service delivery, have produced the highest per bus passenger cost of any major transit system in the country. In short, these costs are pushing the Port Authority toward a financial collapse despite increased funding by the state.

How has this situation come about? National and Commonwealth labor laws bear the major responsibility, especially the fact that Pennsylvania allows public transit workers to strike, something very few states are willing to do. The ability to walk off the job and shut down a vital and critical public service creates an enormous imbalance in bargaining power in favor of the union. The Board and management of the Authority have the responsibility of providing transit service. If service is suspended, the public, particularly transit users, will assign most of the blame to them as often happens to school boards during teacher strikes. Besides, a shut down of mass transit can threaten the public welfare and harm the economy—something no one wants to see or endure. Thus, the union's power to strike is the mother-lode of bargaining chips.

Then too, previous experience, such as the Governor's intervention in the 2005 negotiations, has convinced union members they will come out ahead if they just hold firm. In the current round of bargaining, the union has opted to continue working under

the terms of the expired contract and faces no threat of a lockout. Management cannot take the public relations hit of imposing a lockout, even if they could legally do so. Moreover, the Rendell Administration is continuing to send funds appropriated by the General Assembly for the Port Authority despite the fact that the County has refused to provide legally mandated matching funds. Clearly, neither the Administration nor many members of the state delegation from Allegheny County are eager to see the state cut off funding, as by law they should have already done.

And little wonder. A cut off of state funds would precipitate enormous bus and light rail service reductions, if not a complete shut down of the entire system. On the other hand, if the Chief Executive is coerced by the Administration to release the matching funds to keep the state funds flowing, the union will have won another victory largely at the expense of the Chief Executive. By the same token, a shutdown of the system due to a cut off of state funds would be laid squarely at the feet of the Chief Executive by the union and its supporters.

Once again, the union members look at the behavior of elected officials and see the union clearly still holds the upper hand. Apparently, no one with the ability to do so is ready to pull the trigger to shut down the Port Authority. Acting astutely in terms of public relations, the union is obviously more than happy to continue working under the terms of the expired contract. They do not want to strike and give the public reason to think they are the bad guys. So far it is working beautifully for them. Delaying a new contract as long as possible is actually fairly smart given the probable concessions they will have to make to get a new contract. Eventually the need for raises might weigh more heavily than concession losses. But that probably will not happen for quite some time yet.

In the meantime, we are forced to sit by and watch the feeble efforts of an overly expensive, legacy cost laden and inefficient mass transit agency that has been unable to loosen the transit union's stranglehold on its ability to lower costs. Threats of service reductions and layoffs haven't budged the union, and are not likely to. Nor has the withholding of the County's matching funds caused them to flinch. Indeed, the union is unlikely to make serious concessions on pensions and retiree health care until the Port Authority board—with the backing of the Chief Executive and the Governor—shows a willingness to start a process of undermining the union's control over the Port Authority board's ability to manage.

The first step they must take is to announce an immediate and complete hiring freeze. Retirees and separations will not be replaced. As sets of ten vacancies occur, the Authority will outsource to regional transit agencies or private carriers the routes those ten people could have serviced. Further, the Authority should announce it is setting a goal of 25 percent outsourcing within five years and 50 percent in the next ten years. The 25 percent goal would be non-negotiable. The 50 percent goal could be negotiated depending on the level of concessions the union is willing to make.

Given the strong reaction that would occur at the transit union as well as other public sector unions in the City and County, elected officials will undoubtedly feel some

trepidation about unveiling such a powerful bargaining tool. This is especially true in this crucial election year. However, the current impasse is likely to extend past Election Day and the post-voting period might provide a very opportune time to unholster the best weapon they are likely to have in bringing the union to a reasonable position. Faced with a credible threat of competition through outsourcing backed by the Chief Executive and the Governor, the union will have to rethink its intransigence. Ultimately, their power depends on having a monopoly over labor supply to mass transit in the County. Breaking that monopoly is the critical key to bringing sanity to the economics of mass transit.

The Governor and the General Assembly could also provide a lot of near term help by passing and signing two important pieces of legislation. First, remove the Port Authority's monopoly over mass transit in Allegheny County and allow regional transit agencies and private carriers to offer service in the County. Second, remove the right of transit unions to strike. No more powerful signal could ever be sent that residents will not be held hostage by threats of a transit system shutdown.

Without these changes and reforms, we will continue to face the same old story. The state will continue to send large sums of money to the Port Authority, some service cuts might occur, fares will be raised, and the taxpayer will eventually get the bill for steadily rising costs at the Authority. It is the price taxpayers always pay because elected and appointed officials cannot stop kowtowing to the transit union. And it is one more chain holding back the region's economy.

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