

Christie vs. the Public Employee Unions, Round 2 - Sep 7, 2010 NJ Spotlight.com

Gov. Christie has spent the past eight months brawling with public service employee unions -- and the biggest battles are still to come

"Is this the bleakest Labor Day we've ever experienced?" asks Bob Angelo, a professor at Rutgers University's School of Management and Labor Relations. "More people are out of work than at any time since the 1930s and the Great Depression, especially in New Jersey. We haven't been able to figure out how to transition to the new economy from our base in manufacturing. And we have a governor in Chris Christie who has taken an extreme anti-labor stance in targeting public employees and their unions."

Indeed, Republican Gov. Chris Christie's vitriolic and intense confrontations with New Jersey's public employee unions have already made him the darling of Rush Limbaugh, Glenn Beck and the conservative blogosphere. But the legislative fights of Christie's **first eight months** were just a warm-up for the more serious battles that will take place before the next budget deadline on July 1, 2011.

Christie's 10-Month Agenda

Within the next 10 months, Christie is slated to negotiate a new contract with state workers, implement an ambitious privatization program, decide whether to seek midyear layoffs of state workers once their no-layoff clause expires and propose pension and retiree health care changes that could affect the benefits of current retirees for the first time. And while these changes would affect only public sector unions, Christie's refusal to consider a gas tax increase puts him on the road to his first major confrontation with the private sector building trades unions that have previously been in his corner.

"No governor in New Jersey history has taken such an extreme anti-union position as Christie, who has built his entire administration on attacking public employees and their unions," says Angelo, who has served as the president of one state public employee union and as a consultant to two others. "But what happens if he has to take on the private sector unions too?"

During his first eight months in office, Christie lowered pension benefits for new government workers, made deep cuts in state aid to schools and municipalities that forced thousands of layoffs, and imposed strict limits on future government spending increases. He unilaterally tried to ban labor unions from making political contributions, but was blocked by the courts on constitutional grounds.

But the GOP governor's victories could not have come without the startling acquiescence of a Democratic-controlled Legislature led by Senate President Stephen Sweeney, an Ironworkers Union business representative from Gloucester County. Sweeney and two Democratic colleagues stood alone four years ago when they argued for a 15 percent cut in state employee compensation on the grounds that even unionized workers in the private sector are hard-pressed to make ends meet. Following Christie's election, Sweeney had lots of company, as dozens of Democratic legislators did an about-face when they saw that a volatile electorate worried about its own economic future had focused its anger on public employees who did not share their pain.

Political Survival

Barbara Keshishian, the NJEA president, and Bob Master, the area director for the Communications Workers of America, the state government's largest union, promptly vowed to withhold campaign support from the many Democrats who had abandoned them, but those public threats were silently welcomed by Democratic legislators who were trying to look tough on the unions because they were worried about their own political survival.

Sweeney's sponsorship of the pension reform package in February and his introduction of legislation calling for a strict cap on property taxes in June was widely viewed as a triangulation strategy to give Democrats the political cover they needed to keep control of both houses in 2011, when all 120 seats will be up for reelection. Furthermore, Sweeney is widely regarded as the most likely challenger to Christie in the 2013 governor's race, and he has astutely pointed up differences with the GOP governor on such issues as his support for extending the income tax surcharge on those making more than \$400,000 in order to fund larger property tax rebates for seniors.

Like Christie, Sweeney understood before the 2009 election that the economic ground under most New Jersey families -- union and non-union -- has shifted, and that the tremors are continuing. The Great Recession of 2007-2009 was the worst in the nation's history since the Great Depression, and while economists cite the agonizingly slow economic growth of the past several quarters as evidence that the recession is officially over, people don't believe it. A **Rutgers University poll** released last week showed that two-thirds of Americans believe the nation will be in recession through 2011 and 18 percent expect it to worsen into a depression.

New Jersey's economic growth lags behind the rest of the Northeast, and its 9.7 percent jobless rate remains above the national average. But while politicians and economists talk mostly about the unemployment rate, the impact of the recession on worker paychecks has been broader than that. Fully 35 percent of Americans lost jobs, suffered pay cuts or had their hours cut through furloughs or reduced work-weeks between 2007 and 2009. While the national economy has begun growing slowly, it has been a "jobless recovery," and top economists have begun talking about 10 percent unemployment, which is not at all uncommon in the European Union, as the "new normal" for the United States.

If most New Jersey workers today still belonged to unions or worked for large companies that provided annual pay increases above the rate of inflation and received pensions when they retired, they would not resent public sector workers who do. And even the 12 percent of private sector workers in New Jersey who do belong to unions have been hit hard by the recession. Unemployment in most of the building trades unions, such as the ironworkers Sweeney represents in his regular job as a union business representative, has topped 40 percent, and almost all of their union members are working fewer hours than they did before the recession.

Siding with Christie

Politician/labor leaders like Sweeney and fellow state Senator Donald Norcross, head of the AFL-CIO South Jersey Central Labor Council, said they were willing to take the lead on pension reform bills that limited future benefit levels for new public sector union members because their hard-pressed constituents, including members of their own private sector unions, could no longer afford higher taxes.

Charles Wowkanech, the New Jersey AFL-CIO president who represents both the public and private sector unions, came out of the same private sector Operating Engineers local as influential Essex County Democratic Senator Tom Giblin. But Wowkanech cut his teeth championing the public sector unions in their pension battles with former Republican Governor Christine Todd Whitman in the mid-1990s.

Wowkanech's message of solidarity -- that an attack on one union, whether public sector or private sector, will turn into an attack on all unions -- will be easier to deliver when the battleground shifts to the vital private sector jobs issue of how to fund transportation capital projects in the next budget.

Christie's determination to fund transportation capital programs through the current budget admittedly recognizes that the state may not be able to contribute \$1.6 billion, as it has for each of the past five years by borrowing against future Transportation Trust Fund gas tax, sales tax and motor vehicle fees. Wowkanech, Sweeney and other legislators, including some Republicans, have urged an increase in the gas tax to fund a robust transportation program, but Christie has flatly ruled out any tax increase -- a position that angers the building trades unions and could potentially cost him their support on other initiatives as well. Any reduction in the size of the state's transportation capital budget is a direct cut in unionized building trades jobs, and Democratic legislators/union leaders like Sweeney, Norcross, Giblin and Assemblyman John Egan, D-Middlesex, will go to the mat with Christie over the issue.

Christie at least has been willing to meet privately with leaders of the state's private-sector building trades unions, in stark contrast to his public refusal to meet with the NJEA candidate-screening committee during his campaign for governor and his rejection of requests for meetings with the NJEA and the state government public employee unions after his election.

What has distinguished the public battles between Christie and the public sector unions is the unprecedented level of vitriol on both sides. Christie accused teachers of using students "like drug mules" to oppose school budget cuts, and told an English teacher that if she didn't feel she was getting paid enough, "you don't have to do it." The New Jersey Education Association members countered by comparing Christie to Cambodian dictator Pol Pot, who

put teachers in prison camps, and posting a Facebook entry that prayed for Christie's death -- facetiously, or so the NJEA official insisted.

July 1, 2011: D-Day

But Christie's staff and the unions that represent state government workers will have to begin meeting face-to-face soon because all of the existing state union contracts are up by July 1, 2011.

With New Jersey's budget already in crisis but no indication as of yet that a major recession was on the horizon, New Jersey's state government unions negotiated a four-year contract with Democratic Governor Jon Corzine in 2007 that included zero percent increases in the first two years while Corzine presumably got the budget under control and 4 percent increases in the last two years. Corzine also got the unions to agree to a 1.5 percent copayment on their health insurance plans.

Despite Corzine's pro-union reputation, the contract for the state unions -- the largest of which are the CWA, the American Federation of State, County and Municipal Employees, and the various State Police and Corrections unions -- was significantly less generous than the annual increases being won at the local level by teachers, county and municipal government workers, and especially the local police and firefighters unions who had the benefit of binding arbitration.

With the state facing yet another major budget deficit, Christie has said he would take a hard line in contract talks with the unions, pushing to hold the line on salary increases and asking increased employee copayments for health benefits that amount to a paycheck reduction.

Punishment at the Polls

Public employee unions, unlike private sector unions, do not have the right to strike, so their power at the bargaining table derives at least partly from their presumed ability to punish the governor or the governor's allies at the polls in the next election. Christie's executive order to bar labor unions from making campaign contributions, later overturned by a three-judge appeals panel as unconstitutional, was an effort to reduce that source of union clout.

But a Christie whose national reputation is built on running against the unions is not going to worry about union political retaliation, and just how much he will be willing to bargain is an open question. "I think you're not going to see a lot of real bargaining going on," says Angelo. "The administration is going to be willing to say we can't reach a deal, go to mediation and fact-finding, and there's a very real possibility you could see" the governor unilaterally imposing a contract. "We've been close to imposition before in past negotiations, but it's never happened," says Angelo. "But we've never had a governor before who has made public employees and their unions the issue. Whitman fought with the unions over pensions, but it was never at this level."

While imposition -- or the threat of imposition -- would be a Christie option in negotiations with CWA, AFSCME and the non-public safety unions, the unions representing the State Police and Corrections officers have the right to binding arbitration so imposition would not be an option in those cases. One of the bills in Christie's "toolkit" to reduce property taxes, which is before the Legislature, seeks to change the rules on binding arbitration in order to lower arbitrator awards.

Layoffs and Privatization

While Christie and the state government unions are locked in contract negotiations, the 18-month moratorium on layoffs agreed to by Corzine -- and criticized by Christie -- is set to expire. Corzine reopened contract negotiations with the unions in spring 2009 and got the unions to agree to take 10 furlough days and to defer their third-year 4 percent raise for 18 months until January 1, 2011, in exchange for an agreement that there would be no layoffs during that period.

Christie's privatization commission, headed by former Republican Congressman Richard Zimmer and noticeable for its lack of union representation, already has presented its report, and Christie's current-year budget anticipates partial-year salary savings from the elimination of up to 2,000 jobs, including the prominent elimination of at least 135 jobs through the planned privatization of New Jersey public radio and TV.

It would not be surprising if Christie sought to link contract givebacks to layoff numbers during negotiations, as Corzine did when he reopened negotiations on the state employee contracts in 2009 and agreed to the no-layoff pledge.

However, Christie already faces a current-year budget shortfall of more than \$200 million due to Congress' failure this summer to fully fund the expanded Medicaid payments to the states and is facing a major shortfall in his upcoming budget. Christie's school aid and municipal aid cuts forced thousands of layoffs by school districts and local governments, and if Christie decides to seek midyear state government layoffs, the CWA, which represents white-collar bureaucrats, may be more vulnerable than AFSCME, whose social workers and direct care workers in institutions for the mentally ill and the developmentally disabled are hard to replace. Similarly, it would be more difficult to cut State Police and Corrections officers represented by the public safety unions.

Christie said this morning while making the rounds of the morning talk shows that he would be releasing a package of pension and benefits reform proposals next week. Christie and his treasurer, Andrew Sidamon-Eristoff, have been working for months on a package of proposals to fix the \$45.6 billion unfunded liability in the pension system for retired teachers and state government workers and the \$68.9 billion unfunded liability for retiree health care benefits under a state law providing free health care for life after 25 years of government service.

The only meaningful way to cut the size of the state's liability for pension and retiree health benefits is to seek legislation reducing benefits to current retirees. Christie will find it harder to find Democratic votes for that option than he did to change the pension rules for newly hired workers, and he faces a substantial legal hurdle in a 1997 New Jersey law and a large body of court precedent establishing the "non-forfeitability" of promised pension benefits as a "property right" under the federal and state constitutions.

Still, the states of Colorado, Minnesota and South Dakota all passed laws cutting promised cost-of-living increases to their retirees on the basis of economic emergency, which gives Christie a political precedent.

"Nothing this governor would do would surprise us," says Steve Wollmer, communications director for the NJEA, whose teacher retirees make up the largest group in the pension and retiree health benefits systems.

Whatever the governor or the public employee unions do next, one thing is certain. If the past eight months are any sort of any indicator, the toughest -- and loudest -- fights are still to come.

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