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EDUCATION

ALERT

A Mandatory Exercise for Pennsylvania School Districts Commencing Bargaining with Their Teachers' Unions

Those Pennsylvania school districts that have aid ratios of less than .4 (the wealthier school districts in the Commonwealth of Pennsylvania) are looking at historically low Act 1 indices for the next few years. Indeed, districts that have aid ratios in excess of .4 are also facing historically low numbers.

For the 2010-2011 school year, the base Act 1 index is 2.9 percent. For 2011-2012, the Pennsylvania Association of School Business Officials has opined that based upon the statewide average weekly wage and the employment cost index that one should expect an Act 1 index of 1.4 percent.

Putting aside the PSERS crisis that our State Legislature has yet to satisfactorily address, districts that are currently engaged in negotiations or soon to engage in negotiations should perform some relatively easy calculations to determine the amount of available dollars that can be spent on collectively bargained contracts.

Salary and healthcare benefit packages are not subject to any exception under Act 1. Because healthcare benefits have consistently exceeded the Act 1 index levels (as well as current CPI numbers that are hovering at the 1.2 percent level), districts that enter into collective bargaining agreements that substantively exceed their applicable Act 1 index will find themselves over time eating into their available fund balances, to the extent they exist.

A district should calculate the amount of dollars that a 2.9 percent Act 1 index would generate for the 2010-2011 school year and how much a 1.4 percent increase would generate for the 2011-2012 school year. If you are considering a collective bargaining agreement that extends beyond that, expect a low Act 1 index of the 1.4 percent to 1.5 percent range for the next one or two years because of the lagging statistical data the comprises the Act 1 index.

Then take that available number and reduce it by about 50 percent. In most districts, the salary and benefits on your teachers' contract represent approximately 50 percent of the tax effort/budget of the district. That number should yield the target number that a district should negotiate toward in order to enter into a fiscally prudent contract.

In those districts that I have worked with the Business Office to do this calculation, at least for the first two years of the contract, the index is often not enough to cover salary step movement alone. The numbers are sobering and is indicative of the difficulty that many districts are now having trying to enter into a collective bargaining agreement with their teachers' union, particularly when the cost of healthcare benefits continues to escalate at sometimes a geometric level.

Teachers' unions in the Commonwealth of Pennsylvania have not vocalized their understanding of this situation though some PSEA UniServ Representatives and Federation Representatives have acknowledged the significant consequences of the low Act 1 index on the ability of a school district to fund a labor contract.

If the Pennsylvania State Legislature intended the Act 1 of 2006 legislation to make it difficult, if not impossible, for a school district to enter into a multiple year labor contract with its teachers' union, the Legislature has succeeded without amending Act 195 or Act 88 of 1992.

Unless a school board engages in this exercise, they cannot determine the scope of the difficulty of entering into

a multiple year labor contract with its teachers. If a school district does this and does not have substantive financial reserves, they will find themselves over the next few years substantially cutting back on program, furloughing staff, and changing a lot of the "value-added" aspects of their teaching program that originally caused individuals to settle in their school districts.

Going through this exercise will undoubtedly yield profound results in a very difficult time. Things just don't seem to be getting better.

If you have any questions about the information contained in this Alert, please contact Jeffrey T. Sultanik at 610.397.6515 or jsultanik@foxrothschild.com, or any member of Fox Rothschild's Education Law Practice.

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