

INTEREST ARBITRATION IN OHIO, THE NARCOTIC EFFECT REVISITED

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ABSTRACT

This article follows up on prior research published in the *Journal of Collective Negotiations in the Public Sector*. It indicates that after nine years of experience under Ohio's public sector labor relations statute a "narcotic effect" exists with respect to recourse to dispute resolution procedures.

In public sector dispute resolution there is a concept known as the "narcotic effect." The notion that certain employers and labor organizations would have continued and frequent use of statutory dispute resolution mechanisms was first termed the narcotic effect by Willard Wirtz thirty years ago [1]. Shortly thereafter, in the final report of the *Governor's Committee on Public Employee Relations* in New York State, Professor George Taylor warned that "dispute settlement procedures can become habit-forming and negotiations become only a ritual" [2, p. 33]. That such a phenomenon existed was confirmed for New York State by Thomas Kochan and Jean Baderschneider in the late 1970s [3].

More recently, one of the authors of this article came to investigate the existence of the narcotic effect in Ohio during the early years of experience under Chapter 4117 of the Ohio Revised Code [4]. That section of Ohio law is concerned with labor relations in the public sector in the state. It was determined that as of the date of that study there was occurring in Ohio repetitive use of the interest arbitration procedure of the code. The Ohio public employee labor relations law is a comprehensive statute that establishes a three-tiered method of public sector dispute resolution. The initial stage of neutral intervention is mediation. This is followed

by factfinding. The factfinding process is extended to all employee groups. The final step in the Ohio dispute resolution process is interest arbitration. That institution extends only to employees of safety forces. Nonsafety-force employees are permitted to strike. The definition of safety force in Ohio is a broad one, encompassing police, firefighters, county sheriff deputies, and various groups of employees in state service. These include members of the highway patrol. The purpose of this study was to determine whether the narcotic effect for safety forces continues to exist under the statute in Ohio. That is, do employees who are members of safety forces and their employers have repeated recourse to the final stage of the dispute settlement procedure of the Ohio statute, interest arbitration?

In 1988 it was found that one employer, the City of Warren, had experienced interest arbitration on three occasions. At that date Warren had been the heaviest user of the interest arbitration provision of the code. A number of other jurisdictions had also experienced interest arbitration on two occasions. These included both cities and counties in the state. The public employee labor relations statute of Ohio took effect on April 1, 1984, and the state now has nearly nine years of experience under its provisions. Since the study of utilization conducted about five years ago, heavy use of interest arbitration has continued in the state. One jurisdiction, Cuyahoga County (metropolitan Cleveland area), has had recourse to interest arbitration five times. Five other jurisdictions, including cities and counties, have been involved in interest arbitrations on four occasions.

By the end of 1991 there had been a total of 165 interest arbitrations in Ohio. Examination of the data from the employer side of the table indicates that eighty-seven jurisdictions were involved in interest arbitration on more than one occasion. Somewhat over half (52.7%) of all interest arbitrations involved only thirty-four employers. From the labor organization side of the table, one group has used the procedure far more than any other: the Fraternal Order of Police (FOP). The FOP has been involved in eighty-six interest arbitration proceedings, representing 52 percent of the total. One other union, the International Association of Firefighters (IAFF), has also found itself in interest arbitration frequently. The IAFF has been to interest arbitration on forty-two occasions, representing 25 percent of the total as of the time the study was conducted. There is a labor organization in Ohio that is a rival to the Fraternal Order of Police: the Ohio Patrolmen's Benevolent Association (OPBA). It has been involved in twelve interest arbitration proceedings.

There is an interesting difference between the police (the term is used broadly to include sheriff's department employees) and firefighters with respect to how often they have recourse to interest arbitration. Seventy percent of the disputes have involved police. Firefighters have been involved in 25 percent of interest arbitrations under the law. The remainder are accounted for by such groups as nurses in state-operated facilities. As was the case in 1988, interest arbitrations are heavily concentrated in the northeast section of the state. Two counties, Cuyahoga

and Summit, were the locus of many more disputes than any other section of the state. The Summit County seat is Akron. No other county in Ohio was the site of more than ten disputes. Jurisdictions in Cuyahoga County were involved in twenty-nine disputes. Summit County or its political subdivisions were involved in eleven interest arbitration proceedings.

The data indicate that in interest arbitration, as in grievance arbitration, a few people are called on to perform the bulk of the work. Four individuals in the state account for 47 percent of all decisions. It might be hypothesized that these people have the confidence of union and management representatives alike.

As is to be expected, the most frequently seen issue to proceed to interest arbitration involves the question of the most appropriate wage increase to be awarded. In Ohio the system established by the statute is last best offer, issue-by-issue. That is, on any particular issue the neutral has no authority to modify the position of the employer or the union. The position of one side or the other must be awarded in its entirety. At the time of this study there were 122 interest arbitration cases indicating wages as an issue on file with the Ohio State Employment Relations Board. Of these, the employer position was awarded in sixty-four cases. The union proposal was awarded in fifty-eight cases. Among the unions, the Fraternal Order of Police prevailed on the wage issue on thirty-two occasions. It lost in thirty-one proceedings. The firefighters lost in eighteen cases and prevailed in thirteen. There is no ready explanation to indicate why the FOP has enjoyed greater success than the IAFF in interest arbitration.

There was no need to use sophisticated statistical techniques for this research. The data show to the most cursory observer that the narcotic effect is alive and well in Ohio. The same jurisdictions are involved in interest arbitration year after year, round after round of negotiations. Why this is so is difficult to fathom. It may be that it is easier for the parties to utilize the services of a neutral and let that person take responsibility for an unpalatable result than to negotiate without neutral intervention. The interest arbitration proceeding should not be viewed as solely an exercise in economic decision making by the neutral. There is also a political element in the process. Labor and management representatives can avoid the consequences of a result that is not applauded by their constituencies if it is imposed on them by a neutral. Management, often with differing perceptions at the negotiating table held by representatives of the legislative and executive branches, may find it particularly desirable to avoid the onus of decision making. This is particularly the case in situations where a wage increase involves diverting funds from other desirable governmental functions.

In 1981 research by Butler and Ehrenberg indicated that in New York recourse to interest arbitration was declining [5]. That development was observed by Kochan and Baderschneider as well [3]. In Ohio no decline in the incidence of interest arbitration has been observed. It continues to be widely used and well-accepted. Whether the decline observed in New York will occur in Ohio in the future remains to be seen. What may be said with confidence is that the

addictive effect of neutral decision making continues to hold a powerful influence over negotiators in Ohio.

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