

Must Commonwealth Bargain With Unions?

A law making its way through Congress will radically change state employee relations in Virginia by upending the right of states to determine



JAMES V. MEATH

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whether to bargain with police and fire unions. Currently, each state can determine for itself whether to permit unions of public employees. In 1993, Virginia passed a law that prohibits recognition of public-sector unions in the state, including unions of police, firemen, and paramedics. The Virginia law enjoyed broad bipartisan support, and was signed by Gov. Doug Wilder. The law has worked well in the commonwealth. In fact, the Pew Research Center has long ranked Virginia at the top of the “best managed states” and calls it “a leader in human resources management.”

Many other states have, like Virginia, decided that they cannot afford costly, distracting battles with unions where public safety is at stake. The so-called “Public Safety Employer/Employee Cooperation Act,” or PSEECA, would remove this choice from the states. Regardless of what voters in each state decide, PSEECA would prohibit virtually any law that limited public safety unions’ powers. Among the pre-empted laws would be Virginia’s successful ban on public unions.

Recently, debate has raged over bills such as the Employee Free Choice Act. Meanwhile, however, PSEECA has quietly moved to the verge of passage

with virtually no public discussion.

Michael Amyx of the Virginia Municipal League says that there is a “growing prospect that Congress will mandate collective bargaining for local public safety employees” through PSEECA or a similar bill. But despite being virtually unknown to the public, the act is in many ways more significant to states than the Free Choice Act; in fact, PSEECA would impose some of the Free Choice Act’s provisions on states, including mandatory arbitration (a process where third-party arbitrators unilaterally set terms and conditions for union employees).

If history is any guide, public safety employees in Virginia will be easy targets for union recruiters. While only 7.6 percent of private employees are unionized in the country, almost 36.8 percent of public sector employees belong to unions. The numbers are still higher for police, who are almost 59 percent unionized nationwide. Fully 70 percent of firefighters belong to unions.

If PSEECA passes, it will radically change Virginia’s relationship with its police, firemen, and paramedics. Within two years, the Federal Labor Relations Authority (which has previously only administered federal employees) can take over the full administration of public safety labor affairs in the state. Before those two years are even up, however, police and fire unions are likely to make immediate demands for recognition.

These unions are also expected to immediately demand specific items, such as new or expanded pri-

vate pension or health benefits that go well beyond those offered in their current state plans. Resources that would have been allocated to fighting fires or crime will have to be allocated to these benefits, as well as the highly complicated bargaining process itself. Amyx says his organization is just “beginning the process of determining the significant impacts this legislation will have, particularly on the homeowners and businesses that pay local real estate taxes.”

Beyond the expense, states that permit public safety bargaining have also struggled to hold police and firemen accountable. In Seattle, for instance, the city has clashed bitterly with the union over police discipline after a series of seemingly unjustified beatings went unpunished. In New York, the police department was barred from requiring hair-follicle drug testing of police officers without first bargaining with the union (which opposed the tests). In Albany, a union even argued that a firefighter should not be terminated for committing off-duty arson because it did not impact his job abilities.

Bargaining in the public sector also presents unique risks not found in the private sector. A chief problem is that public-sector bargaining takes issues away from voters and places them in the hands of

union negotiators. For example, municipalities may lose the option of saving money by using a volunteer, rather than paid, fire force. Citizens may no longer get a say in whether school crossing guards should be volunteer or paid police officers. Whether to buy new police cars may no longer be a simple budgetary decision, but a hard-fought bargaining point. More troubling still, when a police officer may be punished for using force could even be made a subject of bargaining.

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Perhaps these costs and risks would be worth it if

the act really could improve employee relations in Virginia. Unfortunately, the effect will be exactly the opposite.

Virginia currently enjoys excellent employee relations, as proven by its top rankings in the Pew studies. By contrast, the Federal Labor Relations Authority, the federal agency that would be given *carte blanche* to administer the new labor rules, recently ranked dead *last* in the Partnership for Public Service’s rankings of the “Best Places to Work.”

It is clear that PSEECA is a federal “solution” to a problem that Virginia simply doesn’t have.

• James V. Meath is a partner with Williams Mullen in the labor and employment practice. Contact him at (804) 783-6412 or jmeath@williamsmullen.com.