

TAYLOR LAW TASK FORCE

Report to

GOVERNOR MALCOLM WILSON

TEMPORARY PRESIDENT OF THE SENATE  
WARREN M. ANDERSON

SPEAKER OF THE ASSEMBLY  
PERRY B. DURYEA, JR.

STATE OF NEW YORK

May 8, 1974

TAYLOR LAW TASK FORCE

Members

ROBERT D. STONE, Counsel and Deputy Commissioner  
for Legal Affairs, State Education  
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York State School Boards Association, Inc.

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Canastota Central School

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DAN SANDERS, First Vice President, New York State  
United Teachers

CHARLES S. WEBB, Legislative Counsel to the Speaker  
of the Assembly

MICHAEL WHITEMAN, Counsel to the Governor

## TAYLOR LAW TASK FORCE

A Report to:

Governor Malcolm A. Wilson  
Warren M. Anderson, Temporary  
President of the Senate  
Perry B. Duryea, Jr., Speaker  
of the Assembly

### I. Introduction

On March 29, Governor Malcolm A. Wilson, with the cooperation of Senate Majority Leader Warren M. Anderson, Assembly Speaker Perry B. Duryea, Jr., State Education Commissioner Ewald Nyquist; Thomas Y. Hobart, Jr., President of NYSUT; Dr. Gordon Wheaton, President of the New York Council of School Administrators and Dr. George Hillman, President of the New York State School Boards Association, appointed a task force to study alternatives to the present provisions of the Taylor Law for resolving impasses between local school boards and their employees when negotiation, mediation and fact-finding have failed to produce agreement.

### II. The Problem

The objective of the Taylor Law, as outlined in its preamble, is to promote harmonious and cooperative relationships between government and its employees by assuring the orderly and uninterrupted operations and functions of government. The Taylor Law requires the state, local governments, and other political subdivisions to negotiate with and enter into written agreements with recognized or certified employee organizations. The Law provides procedures for the resolution of representation disputes and those arising out of contract negotiations. As noted below, the final step in the impasse procedure, if all else

fails, is for the appropriate legislative body to "take such action as it deems to be in the public interest, including the interest of the public employees involved."

Some difficulties have been encountered where the separation of powers presumed to exist by the Law does not, in fact, exist. Such governmental structures exist in towns, the traditional form of county government, and in school districts. The resulting problem is found mostly in school districts. The legislative body, the school board, often participates directly in negotiations and subsequently conducts public hearings which result in unilateral determinations.

### III. Background

1. The following language is from p. 39 of the original (1966) Taylor Law Report:

"This committee recommends that in the event of the rejection of a fact-finding recommendation, the legislative body or committee hold a form of 'show cause hearing' at which the parties review their positions with respect to the recommendations of the fact-finding board."

The Taylor Law, as enacted in 1967, however, did not follow that recommendation, but provided the following impasse procedures if the parties fail to reach agreement within a specified time:

- a. PERB appoints a mediator (or mediators).
- b. If the dispute is not resolved within a specified period, PERB appoints a fact-finder (not more than three) empowered to make recommendations to the parties.
- c. If the impasse continues, PERB is empowered "to take whatever steps it deems appropriate to resolve the dispute" except appoint another fact-finding board.
- d. If either party rejects the fact-finder's recommendations, the chief executive officer (chief school administrator) must, within a specified period, and the employee organization "may submit to such legislative body...recommendations for settling the dispute."

2. In 1969, acting upon the recommendation of the reconvened Taylor Law Committee, §209.3(e) was amended to provide that in the event one of the parties rejects in whole or in part the fact-finder's recommendations:

(iii) the legislative body or a duly authorized committee thereof shall forthwith conduct a hearing at which the parties shall be required to explain their positions with respect to the report of the fact finding board; and (iv) thereafter, the legislative body shall take such action as it deems to be in the public interest, including the interest of the public employees involved.

3. In 1971, §209.3(e) was amended to require that the legislative hearing be public.

#### IV. Experience

PERB has analyzed 204 legislative hearings held by school districts. Of these, 166 involved teachers - 33 in 1970, 53 in 1971, 50 in 1972 and 38 in 1973. No major discernible differences have emerged in any of the survey years. In fact, responses to the 1973 survey were practically identical in substance to earlier responses.

The composite results of these surveys can be summarized as follows (data refer to teaching and non-teaching units):

1. The legislative hearing is generally not a final step. Negotiations continue after legislative hearings 75 percent of the time.
2. Final legislative determinations have been attempted in two-thirds of all of the disputes which have gone to hearing, but these determinations ended the dispute in only 26 cases or 13 percent of them. Negotiations continued in the remainder.

3. In 1973, threats of job actions were reported in 51 percent of all legislative hearing cases (4 strikes actually occurred) but this does not represent a change from former years.
4. Tables A and B reflect the detailed experience.
5. A National Education Association survey for 1970-71 shows that in responding school districts, board members participated in negotiations 46 percent of the time (see Table C).

#### V. Conclusions

The policy of the Taylor Law is that public employers shall negotiate with employee organizations and enter into written agreements with them concerning the terms and conditions of employment.

These agreements do not prevail over duly enacted laws and local ordinances, but rather depend in many aspects upon legislative action to become effective.

However, where legislative action is taken in the absence of agreement between the parties, such action rarely brings about full agreement between the parties and a final resolution of their dispute.

Stable employer-employee relations are thus enhanced by and in fact depend upon a combination of legislative action and agreement by the parties.

Where the parties have exhausted the statutory impasse procedures, and have been unable to reach agreement, PERB should have clear authority to continue all appropriate efforts to assist the parties in achieving agreement.

## VI. Recommendations

We propose the repeal of sub-paragraphs (iii) and (iv) of paragraph (e) of Civil Service Law §209, subdivision 3, which now provide that in the event of an impasse which is not resolved by fact-finding, the legislative body of the government involved shall conduct a public hearing and thereafter "shall take such action as it deems to be in the public interest", and the enactment of two new sub-paragraphs to replace sub-paragraphs (iii) and (iv). A proposed bill is annexed as Attachment A.

Although the problem posed by the legislative hearing and the legislative determination is more apparent and more serious in the case of school negotiations, it applies to all negotiations under the Taylor Law. For this reason, we have recommended a change that would apply to all public employers and employees governed by the provisions of the Taylor Law. We do this because of our conviction that one of the strengths of the Taylor Law is that it treats negotiations for all public employees uniformly and because we believe that the recommendations are valid for all public employers and employees.

RESPECTFULLY SUBMITTED,

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Robert D. Stone, Chairman

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Donald G. Brossman

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John F. Haggerty

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George G. Hamaty

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Robert D. Helsby

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George Hillman

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Thomas Y. Hobart, Jr.

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Albert Shanker

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Dan Sanders

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Charles S. Webb

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Michael Whiteman

ATTACHMENT A

AN ACT to amend the civil service law,  
in relation to the resolution  
of negotiations impasses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (e) of subdivision three of section two hundred nine of the civil service law, as amended by chapter five hundred three of the laws of nineteen hundred seventy-one, is hereby amended to read as follows:

(e) in the event that either the public employer or the employee organization does not accept in whole or in part the recommendation of the fact-finding board, (i) the chief executive officer of the government involved shall, within ten days after receipt of the findings of fact and recommendations of the fact-finding board, submit to the legislative body of the government involved a copy of the findings of fact and recommendations of the fact-finding board, together with his recommendations for settling the dispute; (ii) the employee organization may submit to such legislative body its recommendations for settling the dispute; [iii) the legislative body or a duly authorized committee thereof shall forthwith conduct a public hearing at which the parties shall be required to explain their positions with respect to the report of the fact-finding board; and (iv) thereafter, the legislative body shall take such action as it deems to be in the public interest, including the interest of the public employees involved.] (iii) the board may afford the parties an opportunity to explain their positions with respect

to the report of the fact-finding board at a meeting at which the legislative body, or a duly authorized committee thereof, may be present; (iv) thereafter, the legislative body may take such action as is necessary and appropriate to reach an agreement. The board may provide such assistance as may be appropriate.

§2. Nothing in this act shall affect any authority or responsibility which the legislative body may otherwise have.

§3. This act shall take effect immediately.