

Governor Signs 'Triborough'

Governor Carey has signed legislation that amends the Taylor Law to make it an improper practice for an employer to refuse to continue terms of an expired collectively negotiated agreement (*Assembly bill: 6462*).

The Public Employment Relations Board has determined that it is an improper practice for an employer to change existing terms and conditions of employment, including those contained in an expired agreement, during the pendency of negotiations and impasse procedures under the Taylor Law. This is known as "*Triborough doctrine*."

Employers have broad power to voluntarily enter into agreements concerning matters which are not terms and conditions of employment (non-mandatory subjects of negotiation). The unilateral change of a non-mandatory subject of negotiation contained in an expired agreement has not been found by PERB to be an improper practice. Under the new legislation, *all contract provisions*, not just mandatory subjects of negotiation, must be continued until a new agreement is reached.

"It is unclear whether the result of impasse resolution procedures would constitute a negotiated agreement. PERB has indicated that the law appears to permit non-mandatory subjects that have been incorporated in a prior agreement to continue in effect indefinitely, since the interest arbitration procedures do not allow for resolution of those issues. Furthermore, public employers will be required to continue all of the terms of an expired agreement, even if the affected public employee organization were to engage in a strike in violation of section 210 of the Taylor Law," he wrote.