

CITY COUNCIL MEETING

APRIL 20, 1983

Pg 406

11-28 /
COUNCIL ADOPTS
RESOLUTION
OPPOSING AB187
AND SR778 -
COMPULSORY AND
BINDING
ARBITRATION

RES. NO. 83-29

Following introduction of the matter, Council, on motion of Mayor Pro Tempore Snider, Reid second, adopted Resolution No. 83-29 opposing AB 187 (Young) and SB 778 (Dills) which would enact a system of compulsory and binding arbitration to settle collective bargaining disputes.



California Cities
Work Together

League of California Cities

Alice Reincke

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Sacramento, California
March 15, 1983

Contact:

ALICE H. REINCKE
CITY CLERK
Dwight Stanbaken
Legislative Representative
(916) 444-5790

TO: MEMBERS OF THE PRESS

RE: CITY TAXPAYERS MAY LOSE CONTROL OVER \$2½ BILLION IN CITY SERVICES TO ARBITRATORS

Every legislative session for at least the last 10 years, public safety employee organizations have sponsored legislation to force local governments under a system of compulsory and binding arbitration to settle unresolved issues at the collective bargaining table. The League of California Cities has consistently opposed this legislation. This session, AB 187 (Young) and SB 778 (Dills) have been introduced to enact a system of compulsory and binding arbitration to settle collective bargaining disputes with police officers. It is a distinct possibility that firefighters will be amended into either bill.

What is compulsory and binding arbitration? Local elected officials give up authority over salaries, retirement benefits and other major budget items for public safety employees to an outside arbitrator. The arbitrator resolves these issues by rendering a decision which in his or her opinion constitutes the amount of money that should be paid for a particular benefit. The city council and the taxpayers must live with the decision — good or bad.

Why do cities oppose? The reasons for city opposition are many and include:

- Taxpayers give up voice on public safety services to outside arbitrator!
- Arbitrator has no accountability to taxpayer!
- City loses ability to deal with current fiscal crisis!
- Arbitration is the end of the collective bargaining process!
- Compulsory and binding arbitration is no answer for public employee strikes!
- Arbitration is expensive for the taxpayer!

The enactment of a compulsory and binding arbitration bill would make a profound and detrimental change in the basic authority of local government. This issue is a top priority for city governments in California.

COMPULSORY AND BINDING ARBITRATION IN CALIFORNIA

BACKGROUND

There are 432 incorporated cities in the State of California; 81 of these cities are "charter" cities, while the remainder are "general law" cities.

Charter cities have adopted, with the approval of the voters, a local constitution, or charter, to govern municipal operations. In general, a charter permits a city to operate with a greater degree of independence from the state. General law cities, on the other hand, can only perform those functions specifically outlined in state law. The practical differences between charter and general law cities have diminished over the years. There remain, however, certain areas of municipal operations where a charter city has greater flexibility than a general law city.

AB 187 and SB 778 would force both general law cities and charter cities to operate under a system of compulsory and binding arbitration. The bills do not apply to charter cities where a system of compulsory and binding arbitration has already been amended into the city charter. There are currently six California cities with such provisions in the local charters. General law cities cannot enact a system of compulsory and binding arbitration locally.

The following California cities have a compulsory and binding arbitration provision in the city charter. The names and phone numbers of city managers in these cities have been listed below in case you are seeking further information about how this system actually operates locally:

<u>City</u>	<u>City Manager</u>
Alameda*	Bruce Rupp, (415) 522-4100
Hayward	Don Blubaugh, (415) 581-2345
Oakland	Henry Gardner, (415) 273-3301
Palo Alto	Bill Zaner, (415) 329-2311
San Jose*	Francis Fox, (408) 271-4433
Vallejo	Ted MacDonell, (415) 553-4601

*There is little if any experience with compulsory and binding arbitration in these communities since it was enacted only recently.

THE CASE AGAINST COMPULSORY AND BINDING ARBITRATION

The following arguments constitute the case of city government against a system of compulsory and binding arbitration:

1. Arbitrators Spend Taxpayer Dollars. Compulsory and binding arbitration takes away from the city council its control over the budget for police and fire services. An arbitrator takes the council's place and decides the priority of local services and the amount the taxpayers will pay for those services. If the city council is no longer responsible for setting these compensation levels, where does the taxpayer turn to raise objection? Where is the ability to say "no" to some demands of police and fire unions which by anyone's standards would be judged out-of-line?
2. Arbitrators Are Not Accountable. Taxpayers now hold their elected officials accountable for decisions they make in the local government collective bargaining process. An arbitrator cannot be held responsible. The citizens and the city council have no choice but to live with the results. Adoption of compulsory and binding arbitration means that public safety employee salaries and fringe benefits become, in effect, more important than representative government. Consider the following statement by a California arbitrator who works in the public sector in regard to the question of accountability:

"I am not politically accountable, number one, which raises substantial questions. I could come in knowing nothing about the particular circumstances, and if they fail to educate me fully, I could easily make a grievous error." Testimony of University of California Law School Professor Charles Carver at an Interim hearing of the Assembly Public Employees and Retirement Committee, December 9, 1981, San Francisco, pp. 49-51, Regarding: Present Status of Law Relative to Strikes in the Public Sector.

As illustrated below, a Milwaukee arbitrator did not have the same concern for public finance as the local elected officials or the people who vote them into office. This statement is extracted from an arbitrator's award in that city:

". . . the evidence would indicate that there are surplus funds available from which the (police) association's economic demands, if awarded, can be paid. Additional funds, if necessary, can be borrowed, and so, if the bottom line consists of having to raise taxes, though distasteful, that may well have to be done." Government Employee Relations Report, Bureau of National Affairs, No. 833, October 22, 1979, pp. 23 and 24.

3. Fiscal Crisis Demands Flexibility. Local governments now face the most difficult financial decisions in 50 years. The Legislature should increase the ability of local government officials to make tough financial decisions. Compulsory and binding arbitration only reduces the options open to deal with this crisis. Local elected officials lose the ability to exercise the restraint on public safety employee wages and fringe benefits needed during periods of economic downturn such as we now face. The only option open is to cut other services after the arbitrator has determined how much local taxpayers will pay for public safety services. Consider the following questions:

- Would a newspaper or any other private business operate efficiently and economically if well over half of the budget was determined by someone who knew nothing about the newspaper business and could only narrowly focus on the economic issues defined in the collective bargaining process?
- Would the Legislature support a congressionally-mandated arbitration system whereby 50% of all state employee compensation was determined unilaterally by an arbitrator from the National Labor Relations Board at a time when the state is struggling to balance its budget? Is there any reason to distinguish between the state's need for maximum flexibility and the need to be able to deal with local finance problems?

4. Good Faith Bargaining Ends. There is no incentive on the part of police and fire unions to bargain in good faith with the employer under a system of compulsory and binding arbitration. There is no reason for the union leader to compromise on an issue, no matter how outrageous, when refusal to compromise gets a hearing before an arbitrator where the worst you can do is the employer's last offer and history demonstrates that you usually do better. The reason for this is a very practical one - union leadership is elected by the members. Each issue on the bargaining table represents a pet demand from some member or group and therefore intelligent union leadership is not about to tell any part of the membership that its pet demand will not be pursued when arbitration is available. Consider the following experiences:

- Hayward, California. In 1976, firefighters in Hayward circulated and successfully passed an initiative to place in the city charter a system of compulsory and binding arbitration for firefighters. In 1979, 120 items were given to the arbitrator by the firefighters. This can hardly be classified as good faith negotiations. Firefighter items before the negotiator included such "critical" issues as: (1) the unlimited use of bulletin boards; (2) the ability to handwrite the Fire Incident Reports; (3) use of the fire equipment to go grocery shopping. Are these issues that an arbitrator should be deciding?
- Detroit, Michigan. Before being elected Mayor of Detroit, Coleman Young, as State Senator, supported and voted for a system of compulsory and binding arbitration for Michigan cities. As a Mayor who now finds it difficult to deal with this law, Mayor Young explains the chilling effect of compulsory and binding arbitration on collective bargaining:

"As each issue is discussed at the bargaining table, the underlying position of the union is: 'either give in or we'll arbitrate.' There is very little good faith bargaining. There is very little mutual understanding and mutual problem solving. Compromises are not made. Either we give in to the union or they arbitrate." Address to "Legislative Forum on New Directions For Public Employee Relations," Lansing, Michigan, December 1979.

5. No Answer For Strikes. The only argument offered by public safety employees to justify a system of compulsory and binding arbitration is the assertion that such a system will eliminate strikes by making them illegal. The fact is that public employee strikes are now illegal in California and they still occur (Los Angeles Metropolitan Transit Authority v. The Brotherhood of Railroad Trainmen (54 C. 2d

684). There is no provision in AB 187 or SB 778 which absolutely prohibits strikes. The bills establish fines against striking employees; however, the bills allow the penalties to be negotiated as a part of an amnesty agreement for striking employees. Since this issue is negotiable, the bills may actually result in prolonging strikes until the issue of penalties is resolved. The argument that compulsory and binding arbitration eliminates strikes is very weak and leaves one looking for the real reason behind such a proposal. The reason is simple: money!

6. The Economics of the Issue. Compulsory and binding arbitration is a "no-lose situation" for police and fire unions. The bottom line for the union on any issue is the employer's last offer. Arbitration usually produces an award higher than what is produced through negotiation and it frequently produces an award which the employer cannot afford. This is especially true in these times of economic scarcity. Consider the following points:

- Oakland, California. Faced with an immediate budget deficit, projected to increase in subsequent fiscal years, the City of Oakland in fiscal year 1974-75 required all departments to cut services by 15%. In the Fire Department, this translated into an elimination of 36 positions. This and other issues related to compensation were taken to binding arbitration. In a year with a budget deficit the arbitrator made the following award to firefighters: (1) A 3% salary increase over the 5.8% already offered by the city to the firefighters (the police had already settled at 5.8%); (2) an increase of manning on a fire truck to five firefighters, making Oakland the only city in California with five firefighters on a truck; (3) a reduction in the average work week. The cost of this award was paid with greater reductions than already anticipated in other services.
- Vallejo, California. In 1982, at a time when federal employees were about to receive a 4% wage increase and the State of California was considering anywhere from a 0% to 3% increase for its employees, and cities across the state were negotiating layoffs, work furloughs, reduced working hours, curtailed services, and elimination of capital expenditures, an arbitrator awarded Vallejo firefighters a salary increase of 10.5%. The last offer by the city was 7.5%.
- California Public Safety Compensation. For public safety employee unions to push so vigorously each year for compulsory and binding arbitration must mean that they are unsatisfied with the collective bargaining process or any other method established to set compensation levels. The fact is, public safety employees in California are consistently the best paid and enjoy some of the highest fringe benefits in the nation. A listing of compensation for rank-and-file police and firefighter positions in California's largest cities is contained in the attachment to this material. The reader can draw his or her own conclusion about the fairness of public safety employee compensation levels.

ATTACHMENT

PUBLIC SAFETY RANK-AND-FILE EMPLOYEE COMPENSATION LEVELS

FY 1982-83

	<u>1982-83 Total Compensation*</u>		<u>1982-83 Total Compensation*</u>
<u>Anaheim</u>		<u>Sacramento**</u>	
Fire Captain	\$ 50,208	Fire Captain	\$ 38,724
Firefighter	40,116	Firefighter	32,796
Law Enforcement Sergeant	49,620	Law Enforcement Sergeant	36,636
Law Enforcement Officer	42,564	Law Enforcement Officer	31,740
<u>Fresno</u>		<u>San Diego</u>	
Fire Captain	\$ 48,372	Fire Captain	\$ 35,700
Firefighter	39,204	Firefighter	27,564
Law Enforcement Sergeant	51,000	Law Enforcement Sergeant	36,204
Law Enforcement Officer	41,544	Law Enforcement Officer	31,356
<u>Huntington Beach</u>		<u>San Francisco</u>	
Fire Captain	\$ 51,924	Fire Captain	\$ 72,512
Firefighter	39,984	Firefighter	54,840
Law Enforcement Sergeant	48,696	Law Enforcement Sergeant	61,656
Law Enforcement Officer	41,664	Law Enforcement Officer	53,280
<u>Los Angeles</u>		<u>San Jose</u>	
Fire Captain	\$ 76,896	Fire Captain	\$ 55,968
Firefighter	56,112	Firefighter	44,652
Law Enforcement Sergeant	69,804	Law Enforcement Sergeant	52,008
Law Enforcement Officer	56,760	Law Enforcement Officer	45,288
<u>Oakland</u>		<u>Santa Ana</u>	
Fire Captain	\$ —	Fire Captain	\$ —
Firefighter	52,716	Firefighter	—
Law Enforcement Sergeant	—	Law Enforcement Sergeant	51,336
Law Enforcement Officer	53,916	Law Enforcement Officer	45,300
<u>Riverside</u>			
Fire Captain	\$ 45,984		
Firefighter	36,432		
Law Enforcement Sergeant	43,836		
Law Enforcement Officer	35,592		

* Information has been compiled from the 1983 League of California Cities Benchmark Survey of Compensation. The total compensation figure includes the following elements: salary, retirement, educational incentive pay, medical insurance, dental insurance, optical insurance, life insurance, long-term disability, uniform allowance, holiday and vacation pay. The salary figures used to compute total compensation are the top of the scale for each classification of employee and therefore represent the compensation levels of an experienced employee.

** The figures for Sacramento include the post-1977 retirement benefits for public safety officers. The cost of these benefits is significantly below the pre-1977 retirement benefit structure.

CITY COUNCIL

EVELYN M. OLSON, Mayor
JOHN R. (Randy) SNIDER
Mayor Pro Tempore
ROBERT C. MURPHY
JAMES W. PINKERTON, Jr.
FRED M. REID

CITY OF LODI

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LODI, CALIFORNIA 95241
(209) 334-5634

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HENRY A. GLAVES, Jr.
City Manager

ALICE M. REIMCHE
City Clerk

RONALD M. STEIN
City Attorney

April 25, 1983

Dear

Enclosed herewith, please find Resolution No. 83-29 which Resolution was adopted by the Lodi City Council at its regular meeting of April 20, 1983 by unanimous vote.

Very truly yours,

Alice M. Reimche
City Clerk

AMR:jj
Enc.

The above letter was sent to John Garamendi
Ralph Dills
Phillip Isenberg
Bruce Young
League of Calif. Cities

RESOLUTION NO. 83-29

RESOLUTION OPPOSING AB 187 (YOUNG) AND SB 778 (DILLS)
WHICH WOULD ENACT A SYSTEM OF COMPULSORY AND BINDING
ARBITRATION TO SETTLE COLLECTIVE DISPUTES

WHEREAS, Compulsory and binding arbitration takes away from the City Council its control over the budget for police and fire services in that an arbitrator takes the Council's place and decides the priority of local services and the amount the taxpayers will pay for those services; and

WHEREAS, taxpayers now hold their elected officials accountable for decisions they make in the local government collective bargaining process. An arbitrator cannot be held responsible and the citizens and the City Council have no choice but to live with the results; and

WHEREAS, there is no incentive on the part of police and fire unions to bargain in good faith with the employer under a system of compulsory and binding arbitration. Compulsory and binding arbitration is a "No-lose situation" for police and fire unions. The bottom line for the union on any issue is the employer's last offer and arbitration usually produces an award higher than what is produced through negotiations and it frequently produces an award which the employer cannot afford; and

WHEREAS, local governments now face the most difficult financial decisions in 50 years. The legislature should increase the ability of local government officials to make tough financial decisions. Compulsory and binding arbitration only reduces the options open to deal with this crisis.

NOW, THEREFORE, BE IT RESOLVED the the City Council of the City of Lodi does hereby oppose AB 187 (Young) and SB 778 (Dills) as the enactment of such compulsory and binding arbitration legislation would make a profound and detrimental change in the basic authority of local government.

Dated: April 20, 1983

I hereby certify that Resolution No.83-29 was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 20, 1983 by the following vote:

Ayes: Council Members - Pinkerton, Snider,
Reid, Murphy, and
Olson (Mayor)

Noes: Council Members - None

Absent: Council Members - None

Alice M. Reimche

Alice M. Reimche
City Clerk

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RESOLUTION NO.

RESOLUTION OPPOSING AB187 (YOUNG) AND SB778 (DILLS)
WHICH WOULD ENACT A SYSTEM OF COMPULSORY AND BINDING
ARBITRATION TO SETTLE COLLECTIVE BARGAIN DISPUTES

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WHEREAS, taxpayers now hold their elected officials accountable for decisions they make in the local government collective bargaining process. An arbitrator cannot be held responsible and the citizens and the City Council have no choice but to live with the results; and

WHEREAS, there is no incentive on the part of police and fire unions to bargain in good faith with the employer under a system of compulsory and binding arbitration. Compulsory and binding arbitration is a "No-lose situation" for police and fire unions. The bottom line for the union on any issue is the employer's last offer and arbitration usually produces an award higher than what is produced through negotiations and it frequently produces an award which the employer cannot afford; and

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Dated: April 20, 1983

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passed and adopted by the City Council of the
City of Lodi in a regular meeting held April 20,
1983.

Ayes: Council Members -

Noes: Council Members -

Absent: Council Members -

Alice M. Reimche
City Clerk