



LIEBERT CASSIDY WHITMORE

6033 WEST CENTURY BOULEVARD, SUITE 500
LOS ANGELES, CALIFORNIA 90045
T: (310) 981-2000 F: (310) 337-0837

153 TOWNSEND STREET, SUITE 520
SAN FRANCISCO, CALIFORNIA 94107
T: (415) 512-3000 F: (415) 856-0306

5250 NORTH PALM AVE., SUITE 310
FRESNO, CA 93704
T: (559) 256-7800 F: (559) 449-4535

501 W. BROADWAY, SUITE 800
SAN DIEGO, CALIFORNIA 92101
T: (619) 400-4955 F: (619) 400-4956

ASSOCIATION OF CHIEF BUSINESS OFFICIALS FALL CONFERENCE

Negotiating in Rotten Budgetary Times

10/25/2011

PRESENTED BY:

Peter Brown

Negotiations in Rotten Budgetary Times

Association of Chief Business Officers Fall Conference | October 25, 2011

Presented by: Peter Brown



Agenda

- Keys to Success At the Table
- Available Options for Reducing Costs
- When You Cannot Reach Agreement
- Current Trends in Collective Bargaining Contracts

2

LCW LIEBERT CASSIDY WHITMORE

Keys to Success

- Preparation is Essential to Success
 - Conduct Preliminary Research
 - Finances
 - What will our revenue be?
 - What can we cut?
 - Grievances and other Contract Issues
 - Create Proposals
 - Counter-Proposals
 - Management Proposals

LCW LIEBERT CASSIDY WHITMORE

LCW LIEBERT CASSIDY WHITMORE

Los Angeles | San Francisco | Fresno | San Diego | lcwlegal.com

Negotiations in Rotten Budgetary Times

Association of Chief Business Officers Fall Conference | October 25, 2011

Presented by: Peter Brown

Keys to Success

- Set Realistic Goals
 - Avoid Excessive Expectations
 - Communicate Possible Outcomes to:
 - Governing Board
 - Interested Managers
 - Avoid Excessive Proposals
 - Balance Aggressiveness with Diplomacy

4

LCW LIEBERT CASSIDY WHITMORE

Keys to Success

- Establish Effective Communications
 - Governing Board
 - To the board and by the board
 - Management
 - Employee Organizations
 - Employees

5

LCW LIEBERT CASSIDY WHITMORE

Adopt Problem Solving Approach at the Table

- Identify Problem (articulate objective(s))
- Complete/Full Exchange of Information
- Separate People from the Problem
- Options —> Open Minded and Creative
- Do Not Predetermine Solutions
- Consider Union's Interests

10

LCW LIEBERT CASSIDY WHITMORE

LCW LIEBERT CASSIDY WHITMORE

Los Angeles | San Francisco | Fresno | San Diego | lcwlegal.com

Negotiations in Rotten Budgetary Times

Association of Chief Business Officers Fall Conference | October 25, 2011

Presented by: Peter Brown

Available Options for Cutting Costs

- Reduce Staffing by Attrition and Hiring Freeze
- Reduce Temporary employees
- Incentives for Early Retirement
- Incentives for Reduction in Sick Leave
- Incentives for Reduction in Workers' Compensation

LCW LIEBERT CASSIDY WHITMORE

Available Options for Cutting Costs

- Voluntary Unpaid Leaves
- Voluntary Reduction to Part-Time Status
- Defer Personnel Actions (e.g., promotions, reclassifications)
- Defer or Eliminate Benefits
 - Premium and Standby Pays
 - Overtime beyond FLSA/Education Code Mandates
 - Accrual or Accrual Rates of Paid Leaves

LCW LIEBERT CASSIPI WHITMORE

Available Options for Cutting Costs

- Reduce Salaries
 - Reduce Entry Step Salary Only
- Defer Wage Increases
- Reduce, Freeze or Modify Insurance Contributions/Coverage
 - Remember: You are bound by the benefits contained in current agreements even when faced with budgetary shortfalls!
- Modifying Retirement Benefits
 - Cost Sharing

LCW LIBERT CASSIDY WHITMORE

Negotiations in Rotten Budgetary Times

Association of Chief Business Officers Fall Conference | October 25, 2011

Presented by: Peter Brown

Furloughs

- How are they implemented?
 - Management rights clause
 - No management rights clause

10

LCW LIEBERT CASSIDY WHITMORE

Furloughs

- Pros
 - Immediate savings
 - Can be targeted
 - Are an alternative to layoffs
- Cons
 - May be fought as hard as layoffs
 - FLSA issues

11

LCW LIEBERT CASSIDY WHITMORE

Lavoffs

- Districts retain right to layoff, subject to bargaining the impacts and effects
 - Academic employees require 3/15 notice
 - Classified employees are more flexible
- If you have a “no layoff” clause, you need to address it ASAP
- Consider whether existing layoff article permits without further negotiations

12

LGW | Lippert-Giesen-Wentzien

Negotiations in Rotten Budgetary Times

Association of Chief Business Officers Fall Conference | October 25, 2011

Presented by: Peter Brown

Layoffs – Impacts and Effects

- Impacts and Effects
 - Can include matters relating to wages, hours and other terms and conditions of employment
 - Order of layoff, seniority and bumping for classified employees

13

LCW LIEBERT CASSIDY WHITMORE

Unable To Reach Agreement

- Are We at Impasse?
 - Bargaining Authority Exhausted
 - Utilized Mediation, Factfinding, etc.
 - Membership Rejected Last, Best & Final Offer

14

LCW LIEBERT CASSIDY WHITMORE

Unable To Reach Agreement

- Should We Impose Last, Best & Final?
 - Pros:
 - Ends Process
 - Allows Implementation of Changes to Working Conditions
 - Conveys Benefits of Final Offer to Employees
 - Cons:
 - Employees May Feel Abused
 - Only Good for One Year - Or Less
 - Possible PERB Charge / Litigation

15

LCW LIEBERT CASSIDY WHITMORE

LCW LIEBERT CASSIDY WHITMORE

Los Angeles | San Francisco | Fresno | San Diego | lcwlegal.com

Negotiations in Rotten Budgetary Times

Association of Chief Business Officers Fall Conference | October 25, 2011

Presented by: Peter Brown

Unable To Reach Agreement

- Implementation: Make Sure You Have:
 - Negotiated in Good Faith
 - Exhausted Impasse Procedure
 - Notified the Union of Intention to Impose
 - Given the Union the Opportunity to Address Governing Board in Public Session
 - Complied with Brown Act
 - Implemented the Last, Best & Final Offer

16

LCW LIEBERT CASSIDY WHITMORE

Health Insurance Trends

- **Health Benefits** (taken from June 2007 Survey)
 - The cost of health coverage continues to be a significant budget line item with a mean percentage of total budget at 7.44%.
 - Kaiser and Blue Cross continue to be the most-used medical providers of the group of responding districts.

17

LCW LIEBERT CASSIDY WHITMORE

Retiree Medical

- Health Benefits (continued)
 - Although approximately 30% of Districts provide some form of lifetime retiree medical benefits, districts are gradually decreasing or discontinuing those lifetime benefits based on hire date. Also, be aware of *Sappington v. Orange Unified School District*.

18

LGW Linear Glassy Watermarks

Negotiations in Rotten Budgetary Times

Association of Chief Business Officers Fall Conference | October 25, 2011

Presented by: Peter Brown

Thank you

Peter Brown

- Partner | Los Angeles
- 310-981-2000 | pbrown@lcwlegal.com
- www.lcwlegal.com

19

LCW LIEBERT CASSIDY WHITMORE

LCW LIEBERT CASSIDY WHITMORE

Los Angeles | San Francisco | Fresno | San Diego | lcwlegal.com