

PEF Fades Andy, Saying No Thanks for Nothin'

By RICHARD STEIER | Posted: Monday, October 3, 2011 5:00 pm

For most of his first year in office, Governor Cuomo was on the kind of roll that's a craps shooter's dream. All it took, however, was a majority of the members of the state's second-largest union to fade him on a terrible excuse for a wage contract to turn the dice cold and make clear he had pressed his luck too far.

It was something of a shock to learn that 54 percent of the 36,000 Public Employees Federation members who returned contract ballots chose to reject the deal and dare the Governor to make good on his threat that 3,500 of them would be laid off for their defiance.

It wasn't that the deal had much to recommend it, given its unprecedented three-year wage freeze, an increase of up to 60 percent in employees' health-care premiums, and nine days worth of furloughs, which meant that even with a \$1,000 cash payment and two 2-percent increases on the back end of the five-year pact, they would be losing money. But the fear of layoffs had stampeded the union's leadership into accepting those terms in July, and the ratification of a similar deal a month later by the Civil Service Employees Association made it virtually impossible that PEF members could do better if they voted it down.

But PEF has always been a more-militant union than CSEA—it was actually formed more than 30 years ago when the latter group's Professional, Scientific and Technical unit disaffiliated after one too many rollovers by CSEA's leadership—and any sense of resignation about the prospects of doing better was apparently overwhelmed by anger at being treated like chumps by the Governor.

'Members Smarter Than Leaders'

"At the end of the day, this is the membership being smarter than the leadership," said one veteran union negotiator who did not want to be identified. He surmised that the vote against was propelled by more-senior employees who were unlikely to be laid off, and who may have had misgivings about colleagues losing their jobs but ultimately told themselves, "I can't vote for this because of my own economic reality."

Court Officers Association President Dennis Quirk, who has already stated that he and his fellow court-union leaders have no intention of agreeing to the health-care concessions that CSEA took and PEF's rank-and-file rejected, said, "The Governor is trying to rein in the expenses of the state but can't blame the state budget problems on the public employees. I understand the three years of no raises. What I don't understand is the substantial increases in medical insurance. I think if you had three years of zero but no changes in the medical insurance, it would have passed. I don't think the furloughs were the major issue."

Mr. Cuomo doubled up on the screwing he was asking the state unions to accept because that was what he needed to get the \$450 million in savings he demanded from labor. But as PEF President Ken Brynien wearily acknowledged Sept. 27 after his union's ballots had been tallied, Mr. Cuomo's insistence that union members take that kind of hit at the same time he ensured that the millionaires tax would not be extended at the end of the year—even under a compromise offered by Assembly Speaker Shelly Silver that would have limited the surcharge only to those making at least \$1 million in taxable income—became too much for his rank and file to swallow.

'Enough is Enough'

"The sacrifices were too great, and they said, 'Enough is enough,'" he told reporters at a press conference at the American Arbitration Association's Manhattan offices following the vote count.

State Sen. Diane Savino, a former vice president of Local 371 of District Council 37, said, "I quite frankly am not surprised it was voted down. If you're gonna negotiate with your foot on people's necks, sometimes they're gonna rise up and say, 'I'm not gonna take it anymore.'"

That view was shared by one city labor leader who, speaking conditioned on anonymity, said, "I always believed PEF would vote it down, knowing those people. They would've been saying, 'You're fighting for a tax break for millionaires and you want us to take it even more on the chin?'"

Even worse, he said, is that Mr. Cuomo will have to go through with the layoffs because there is "no way to renegotiate this thing because it's pegged to the CSEA situation. He played his game too well."

During the summer, it seemed as if the Cuomo administration had found the perfect choreography to dance right through the revulsion that state-union leaders as well as their members felt about the terms. The Governor bullied the CSEA into accepting the deal with the threat of laying off at least 4,500 of its members. While the pact was awaiting rank-and-file ratification, the administration sent out the first several hundred layoff notices to PEF members, with the job losses to take effect on the same day that the CSEA mailed out its ballots.

Mr. Brynien might otherwise have waited to see how the CSEA vote went before agreeing to terms he made clear he loathed, but the prospect that he could lose a few hundred members without even knowing whether a better deal could realistically be achieved led him to take an almost identical pact July 16, six days before the CSEA ballots went out. His capitulation meant CSEA members received their ballots knowing the chances of improving on their terms by vetoing their pact had just been compromised. The deal was approved by 59 percent of those who cast ballots, but just as significant a signal as to the discontent was that only 43 percent of the 66,000 state workers represented by CSEA bothered to vote. In contrast, 65 percent of PEF's 56,000 members returned their ballots, and while they rejected the terms by a much-smaller percentage, 3,000 more of them vetoed the deal than voted to ratify among CSEA's members.

Those Not At Risk Stood Tough

One factor, Ms. Savino said, was that the Cuomo administration had tipped its hand by sending out the several hundred layoff notices to PEF members before the union came to terms. While Mr. Brynien spoke of the hundreds of members who had urged him to take the deal to preserve their jobs, there was a far-greater number of union members who realized they had too much seniority to be at risk of a layoff.

“There was anger that they don’t like being targeted,” she said of those members. “But once they knew the ones who were actually targeted, it made it easy for those who weren’t to decide they would take a stand on principle.”

There was undoubtedly a heavy measure of self-interest behind those votes as well. But that made them no worse than Mr. Cuomo, who faced with a tough situation had decided it was politically more profitable to put the burden on the public-employee unions rather than asking wealthier New Yorkers to lend a hand. Even under Mr. Silver’s proposal that would have ended the surcharge for those making between \$250,000 and \$1 million, the state could have reaped \$500 million a year from a real millionaires tax. It would have reduced what he needed from labor, but it also would have forced him to deal with the certain opposition that tax would have faced in the Republican-led Senate.

Mr. Quirk said there was some validity to Mr. Cuomo’s concern that wealthier New Yorkers might have left the state—at least for the 183 days of the year it would take to establish themselves as residents elsewhere who would not be subject to New York State income tax—if the surcharge was extended beyond Dec. 31. “You win a battle and you lose the war,” he remarked. “There’s something to be said for the Governor’s position. As far as shared pain, everything is blaming the unions. The employees. What about what some of the executives are making?”

Sprinkled Sugar on Gruel

PEF ratifying its deal would have made it all work for Mr. Cuomo. He had suffered his only real previous setback this spring when the small law-enforcement unit of Council 82 vetoed terms that were even worse, and after that his administration marginally improved its offer to CSEA in what amounted to sprinkling some sugar on a bowl of gruel. He had worked in his father’s administration long enough to have gained some sense of the two large state unions; he may even have designed his economic plan with an eye toward settling an old score against them for contributing to Mario Cuomo’s being denied in his bid for a fourth term in 1994 when they chose to stay neutral in the race.

Teamsters Local 237 President Greg Floyd said he believed Andrew Cuomo had blundered in taking too many public bows on his contract deals before the PEF terms were ratified. “When you have one side making comments about how great he did, that makes the labor leader look weak,” he said. “I

do think that had an impact on the members.”

The reaction of the administration after the deal went down suggested the Governor and his aides hadn't absorbed that lesson. State Operations Director Howard Glaser, who had been the man delivering the layoff threats for Mr. Cuomo with metronomic regularity every time an important juncture in the process approached, blamed Mr. Brynien for “a failure by PEF's leadership to effectively communicate the benefits of the contract to its members... we now found out that they do not truly represent their membership.”

The problem with that analysis was, aside from avoiding layoffs, the detrimental aspects of the contract far outweighed its benefits. And the lecturing tone of “they do not truly represent their membership” sounded a lot like Mr. Cuomo in his “Bad Andy” days, before he learned to publicly curb his temper and refrain from finger-pointing recriminations.

Post Likes That Guy

The New York Post, with which he's formed an oddly synergistic relationship going back to last year's campaign, strained credulity even by its own standards by claiming “the rejected contract terms weren't especially onerous” in an editorial headlined, “Off With Their Heads.” It sounded gleeful in stating that PEF's “rank and file tossed 3,500 of its junior members under the bus, and that's where they must stay if the state budget is to remain balanced.”

Chances are, Mr. Cuomo isn't chortling along. He's confronting a major mess, one that could splatter the more-compliant CSEA as well.

Although the layoffs are supposed to take effect in two weeks, civil-service rules will complicate the job cuts enormously. More than a few of the PEF people scheduled to lose their jobs figure to have “bumping” rights they can exercise by moving into a previous job title. More often than not, that title is represented by the CSEA, and its current occupant would then be the person facing layoff unless he or she could bump someone else lower down in the pecking order. This means those “laid-off” PEF members would take a pay cut and come under the CSEA's banner but would stay on the payroll. And CSEA President Danny Donohue, who made the deal to protect his members from layoffs, could be facing the anger of both those who get bumped out of a job and more-senior workers who would question how he could have let them get whacked economically without having really safeguarded those who were most at risk.

Service Cuts Hurt Cuomo, Too

Beyond CSEA members turning into collateral damage, Senator Savino was among those pointing out that eliminating 3,500 jobs was likely to hurt Mr. Cuomo as much as it hurt the union. “We can continue to pretend that service reductions don't matter to the public, but that's not the case,” she said. She cited the impact budget cuts made earlier this year had when in the wake of Hurricane Irene, state agencies had to respond to flooding that plagued not only numerous upstate towns but a

section of the State Thruway.

“A lot of these job cuts would be in social services,” Ms. Savino said. “You have a kid who’s developmentally disabled, you’re gonna have to wait longer for him to get help. At some point, people are going to start to equate it with the Governor.”

Mr. Floyd noted that the contract rejection came just after Mr. Cuomo had the happier announcement that day of a \$4.4-billion agreement with telecommunications firms including IBM and Intel that is expected to create 2,500 permanent jobs and 4,400 temporary construction positions. “He was feeling pretty good about today,” he said. “But now, if he lays people off, he’s going to look like a mean-spirited Governor, and you’re still gonna need the [state] services. If he doesn’t, then it looks like he’s someone who doesn’t mean what he said.”

“This could be a portent of things to come,” said Bill Henning, a second vice president of Communications Workers of America Local 1180. “The Transport Workers Union is supposed to start bargaining soon, and they’ve already said they’re not interested in going backward.”

TWU: ‘Strengthens Our Position’

TWU Local 100 President John Samuelsen made no effort to conceal his delight that PEF members voted down their pact, saying with a laugh, “The Governor is in a little bit of a bad situation. I’m very pleased by the way the vote went. It strengthens Local 100’s position going into the expiration of our deal on Jan. 15.” He said the CSEA terms if applied to his rank and file “would put Local 100 members back about 20 years in terms of being able to take care of themselves and their families.”

That line might have sounded hyperbolic, but Mr. Quirk gave it some perspective. Referring to wage freezes state unions had to endure beginning with the latter part of Mario Cuomo’s administration and continuing under George Pataki, he said, “We had four or five years of zeroes over the last 20 years. When the state suddenly had money, they never came to us and said, ‘We wanna make up for all those zeroes you had to take.’”

“Hopefully,” Mr. Samuelsen said, “this will be the spark that the public labor movement needs to begin a comprehensive fight-back.”

United Federation of Teachers President Michael Mulgrew took a more-sobering view of what the contract veto meant, saying, “All I know is layoffs are bad for anyone who’s involved, and it’s bad for the state.”

But Mr. Henning thought the thumping Mr. Cuomo took might have a positive long-term impact. “These valuable state workers essentially said, ‘We are not K-Mart workers and we should not be working for K-Mart discount wages.’ The members of PEF said no, and bully for them.”