

Denounce Mayor's Shift In Trade-Worker Pay Status As Power Grab

By RICHARD STEIER | Posted: Monday, April 16, 2012 4:30 pm

A move April 11 by Mayor Bloomberg discontinuing the City Comptroller's role in deciding wage increases for 10,000 skilled-trades workers employed by the city was swiftly denounced by numerous union officials led by the president of the State AFL-CIO, who called it "a troubling and transparent attempt to diminish the wages, benefits and conditions of employment of hard-working New Yorkers."

State AFL-CIO President Mario Cilento stopped short of threatening legal action to overturn the Mayor's moving those workers, whose salaries have been pegged to the "prevailing rate" paid in private industry for similar job titles, into job classifications that require them to go through the same collective-bargaining process as other municipal workers. And Vincent Alvarez, president of the AFL-CIO's New York City Central Labor Council, issued a joint statement with Building and Construction Trades Council President Gary LaBarbera that merely said "we are exploring all our options" given their questions about the legality of the change.

'A Long, Litigated Fight'

But Teamsters Local 237 President Gregory Floyd, whose membership includes about 2,000 prevailing-rate workers covered under Section 220 of the State Labor Law in titles such as Elevator Mechanic, Plasterer, Bricklayer and Cement Mason, left no doubt of his intentions.

"This is going to be a long, litigated fight," he said April 11, not long after city officials began alerting union leaders to an Executive Order that Mr. Bloomberg had signed ending a practice that existed for 118 years.

James J. Tucciarelli, the president of Sewage Treatment Workers Local 1320 of District Council 37, was less definitive about a lawsuit—"It's gonna be a full-court press among all the attorneys, looking at the language and deciding what to do"—but not nearly as reserved in criticizing the Mayor.

"I believe they're retaliatory," he said of the changes in status, which affect all 900 of his members, some of whom hold the title of Senior Sewage Treatment Worker. He was referring to a 2010 case in which his local won raises of up to 63 percent over a six-year period without even going to the Comptroller.

In that case, an impasse between Local 1320 and the Mayor's Office of Labor Relations initially went to the city's Office of Administrative Trials and Hearings, which recommended large increases after determining that Sewage Treatment Workers should be paid at a comparable level to the Operating Mechanic A title at Con Edison, with Senior STWs compensated in line with Con Ed

Plant Operators.

Worked Out in Bargaining

The city initially appealed the recommendation, but wound up returning to the bargaining table in March 2010 and working out a deal under which it agreed to the OATH salary recommendations but won some concessions from the local on vacation time and supplemental benefits to trim the cost of the package a bit. Department of Environmental Protection Commissioner Caswell Holloway said then that the accord “fairly compensates some of this city’s hardest-working and most-critical employees.” At the same time, a separate agreement providing hikes of up to 85 percent covering a 12-year period was reached for DEP electrical workers.

Mr. Holloway has since become Deputy Mayor for Operations and played a key role in implementing the classification changes.

“We beat them fair and square every step of the way,” Mr. Tucciarelli said regarding that deal. “But any time the Mayor doesn’t like something, just like on the term limits, he flops on his position.”

Swayed by Recent Court Ruling?

Mr. Tucciarelli also cited an award that raised pay by nearly 50 percent for Laborers represented by DC 37’s Local 924. That increase was upheld by an Appellate Division panel of State Supreme Court on March 27, 15 days before Mr. Bloomberg issued the executive order.

Mayoral spokeswoman Julie Wood declined comment on whether the court ruling played a role in Mr. Bloomberg’s revisions for all “220” titles, as well as on Mr. Tucciarelli’s claim that he was retaliating because of the rulings that did not go his way.

The change will not initially affect those already holding positions covered by Section 220; the Executive Order refers repeatedly to “grandfathered” employees who will retain current salaries and benefits for their titles. Future employees, however, will not be entitled to the same compensation; their pay and benefit rates will be determined in the next bargaining session between their unions and City Hall, with any appeal going through the city’s normal dispute-resolution process for wage contracts rather than the Comptroller’s Office.

How Old Structure Worked

Unlike unions such as Local 3 of the International Brotherhood of Electrical Workers, the District Council of Carpenters and Plumbers Local 1, Local 237 and DC 37 have large contingents of city members who are not under Section 220. For that reason, their prevailing-rate employees have always had the option of accepting wage settlements reached between the Mayor’s Office and their unions covering the larger membership.

If they were unhappy with those deals, however, they had the same right as the building-trades unions to ask the City Comptroller’s Office to decide their contracts based on a survey of what was

being paid for the affected titles in private industry.

The Comptroller's award was supposed to be based on an analysis not only of salary but of fringe benefits, often resulting in awards where the pay raise fell short of the private-industry standard because it was determined that city workers received more-generous fringe benefits than their counterparts. Mayoral officials over the years have accused a number of Comptrollers of being overly generous to the prevailing-rate employees as a way of cultivating the political support of their unions.

Some Bloomberg administration officials have been vehement in claiming Comptroller John C. Liu has been particularly guilty of that practice, although the case that would best support their argument actually involves a private-sector group, the moving-industry employees represented by Teamsters Local 814, and another portion of the labor law that governs the employees of private contractors doing business with the city, known as Section 230.

Big Hikes Nullified by Judge

In July 2010, Mr. Liu issued a determination that the top-paid drivers employed by moving firms doing business with the city should be paid as much as \$38.90 per hour, \$14.55 of which was for "supplemental benefits" in addition to basic wages. The affected firms appealed that decision in Manhattan Supreme Court, and Justice Alice Schlesinger ruled in their favor slightly more than a year ago.

Noting that the private-industry average wage for movers was \$19.19 hourly, and the pay schedule of the U.S. Department of Labor set the top hourly rate at \$20.14, she wrote in her opinion that "the Comptroller's prevailing wage schedule risks producing inconsistent and arguably absurd results, since a moving company awarded contracts on a municipal job, a private job, and a Federal job would need to pay its workers twice as much for the municipal job as compared to the private and Federal jobs."

One union official, speaking conditioned on anonymity, cited that blistering opinion as a likely factor in Mr. Bloomberg's move to strip the Comptroller's Office of the power to set salaries for city workers covered under Section 220.

'Fed Up With His Pandering'

"Never have we seen something so outlandish," he said, contending that Mr. Liu, by issuing a determination that wound up meeting the steep standard required for a judge to overrule an administrative decision, had actually hurt the labor movement. "The Mayor is fed up with his pandering on '220' awards."

That view was supported by one mayoral aide, who said that unhappiness with several of Mr. Liu's rulings "was definitely a factor" in the change.

But another mayoral official, also speaking on condition that he not be identified, insisted the move was not intended as a shot at the Comptroller, saying, “People are reading that into it, that it’s vindictive, but that’s not it.”

He noted that under the Executive Order, all of the affected employees will remain in the Competitive Class of civil service, but the Commissioner of Citywide Administrative Services has the right to place them in any of 14 categories, which collectively will be known as the Maintenance and Operation Services. They will have the same initial collective-bargaining procedure that already existed for skilled-trades workers represented by municipal unions like Local 237 and DC 37, but in the event that they are not satisfied with the larger citywide settlements, they will have the power to petition the Office of Collective Bargaining, rather than the Comptroller, for a better award.

‘Already Works for 97%’

The process, this official said, “works for 97 percent of all workers; there’s no reason it shouldn’t work for them.”

Mr. Liu’s Communications Director, Peter Thorne, sharply questioned the premise of that statement, saying the Bloomberg administration had “an established track record of failure with the existing ninety-seven percent of city workers with whom they pledged to negotiate in good faith only to allow their contracts to expire.” Countering the Mayor’s view that Mr. Liu had shown fiscal irresponsibility in some of his awards, Mr. Thorne argued that Mr. Bloomberg was the one guilty of that quality because his failure to negotiate timely replacement contracts with the unions—the largest of which, the United Federation of Teachers, represents members who are working more than 29 months under an expired wage deal—could “defer billions of dollars of current costs to future City budgets” once those deals are actually reached.

Concerns were expressed in a statement issued by the District Council of Carpenters, whose director of civil service affairs, Bill Lacey, criticized the lack of consultation with either the unions or Mr. Liu and said, “In changing a 100-year-old policy, it raises the question of whether this is the Mayor’s first step in doing away with all prevailing-wage work, including all contracted-out public work.” His organization is also “weighing all of our options to oppose this.”

A Four-Grade System

The new classifications under the Executive Order create pay plans for related titles. For instance, those performing blacksmith work would now be part of a Metal Work Service Pay Plan, with other pay plans created for specialties such as Building Maintenance Service, Electrical Service, Plumbing Service and Maritime Service.

Each will have four grades—Helper/Entry-Level, Journey-Level, Supervisor and Supervising Supervisor—with pay ranges established for each. As part of the grandfathering, employees whose current salaries exceed the maximums for their new classification will retain their pay levels. If they

are promoted, however, to a new grade, the amount of the scheduled increase for that grade will be limited to their former salary plus the pay increase that those covered under the new plan would have been entitled to had they advanced a grade.

Employees promoted to a higher title within their pay plan will receive the minimum salary for the title or a \$1,000 pay increase, whichever results in a higher salary. In cases where they are promoted to a higher assignment level within the same title, they will get an "advancement increase" equaling the difference between the minimum salary for the title and the maximum of that title divided by the number of levels.

A spokesman for Mr. Liu declined to respond to a question about whether he viewed the Mayor's order as an attempt to diminish his authority as Comptroller.

Denies Liu 'Inflated Wages'

Deputy Comptroller for Legal Affairs Valerie Budzik issued a statement, however, taking issue with claims that the process by which Mr. Liu determined skilled-trades pay rates "inflates wages. In fact, in one recent case involving electrical workers in sewage plants, the Mayor chose to settle at a rate higher than the Comptroller's recommendations." While the Bloomberg administration had cited awards totaling \$600 million in back pay, she contended "that figure is high only because the Comptroller is called upon to resolve wage disputes that have dragged on for years, with back wages piling up."

Statements issued by several union officials, however, made clear that they believed the new process would work to the detriment of their members. The one issued on behalf of Mr. Alvarez and Mr. LaBarbera predicted the change "will make life more difficult for families and individuals struggling in these difficult economic times."

And DC 37 Executive Director Lillian Roberts likened the Mayor's move to the recent Tier 6 legislation Governor Cuomo steered to passage over union objections, calling it "part of the larger nationwide assault on working people by the richest one percent." She predicted it would have the effect of "gutting the hard-earned wages and benefits of city skilled-trade workers."