

Challenging layoffs in tough economy

BY ERIC LEVINE

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Layoffs. Furloughs. Demotions. These terms have recently become the rallying cry of municipalities seeking union concessions. Whether during active collective bargaining or during the term of an unexpired contract, municipalities are increasingly threatening

to reduce the size of their police departments, either temporarily or permanently, to cut costs. When facing such a threat, the question that every police officer must ask is what can be done to prevent the loss of jobs?

Over the past year and a half, I have successfully challenged layoffs, demotions, and furloughs at both the municipal and county levels, along with my partner, D.B. Ross, Jr. While there is no "silver bullet" that universally applies to winning this fight, here are a few approaches that we have found effective.

Obtain financial information immediately

Once the idea of a reduction in force is raised, begin analyzing the municipality's financial condition. Submit requests for information and engage the services of an expert in government finance to analyze that data. It is critical that the data be carefully analyzed to determine if the municipality's financial condition is as bad as advertised. Assign union members specific tasks of gathering information and assist your experts to insure that they have complete information to mount a defense. The leadership of Cranford P.B.A. Local 52 acted swiftly to engage an expert and assisted us in gathering data when layoffs were threatened. We were prepared to counter the Township's claims of financials distress with specific details and hard data. The end result: no layoffs.

Determine if the reduction can truly be carried out Calling the municipality's bluff is a risky proposition when jobs are at

stake, but so is agreeing to concessions based on a threat that the municipality may not be able to carry out. In addition to analyzing the finances involved, analyze the impact that a reduction with have on manpower to determine the true minimum manpower with which your department can operate. It is critical to know just how many officers, if any, can be terminated or supervisors demoted while leaving sufficient manpower to properly serve the public.

It is easy for an employer to claim that layoffs are needed to cut costs or to avoid tax increases, but it is harder to justify layoffs when confronted with data showing that less officers means longer response times to respond to calls for service without increasing overtime costs. When the town of West New York threatened P.B.A. Local 361 with laying off twenty-two patrol officers, the P.B.A. leadership and I worked very hard to show the Town that terminating twenty-two officers would cripple the department unless massive amounts of overtime were utilized.

Understand what your legal rights to challenge a layoff or furlough

You must understand the appeal process that you are subject to, which differs between civil service and noncivil service jurisdictions. Each process has its own specific time frame that governs when a challenge must be filed, and each process has its own standard that must be met in order to win. For example, in civil service jurisdictions, the analysis will tell you whether there is a basis to appeal for both bad faith and that municipality's lay-off plan incorrectly determined the seniority rights of the affected officers.

Determine who you must convince that the reduction is wrong

When we successfully challenged the proposed temporary furloughs in Hudson County for P.B.A. Local 334, in addition to filing a class action challenge with the Civil Service Commission, we determined that that the Freeholders, not the Sheriff, were the people we needed to convince. We explained to them that, prior to determining that a furlough was needed, there were no attempts by the Sheriff to explore alternatives to layoffs, and no meaningful negotiations occurred. We also explained that the Sheriff's Department was hiring a new class of recruits at the same time as the furlough was proposed.

Determine whether public sentiment is on your side and if so, how best to use it

Knowing whether the public is for or against the reduction in force is crucial in effectively fashioning a strategy. Your actions will be very different if the public is in favor of the reduction. For example, if you plan a demonstration or rally to protest the municipality's actions, be sure that someone other than your union members will show up. In West New York, we were fortunate enough to have the support of the public, who were extremely vocal and who we knew would attend any meeting at which the day offs were discussed. Our rallies were well attended, which resulted in significant media exposure. When I challenged the Town's layoff plan during an open meeting, it was routinely in front of several hundred residents supporting P.B.A. Local 361.

When a municipality starts thinking about cutting police jobs, every step should be taken, publicly if necessary, to prove it is the wrong decision. While the decision to layoff or demote someone is one that is to some extent beyond your control, that does not mean you do not present the best defense you can. Act swiftly, armed with knowledge, and with your focus on the people who are calling the shots.

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