

Pension Madness

Issue transcends transit strike



E.J. MCMAHON

DISPUTES over wages, health insurance and work rules are nothing new in transit union negotiations. But one of the most contentious issues in the latest contract talks between the Metropolitan

Transportation Authority and Local 100 of the Transport Workers Union has implications that go far beyond the cost of a MetroCard. That issue is pensions. The MTA's bargaining position represents the first serious effort in nearly 30 years to scale back generous pension benefits for any group of New York government workers. A management victory here would be a positive precedent for taxpayers throughout the Empire State. Small wonder, then, that leaders of other public employee unions are rooting hard for the TWU.

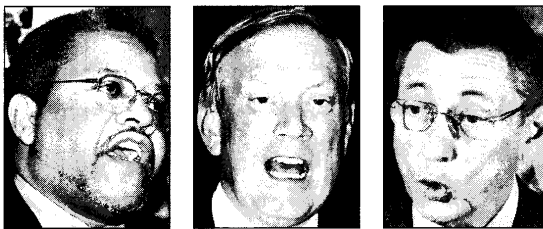
Like all government workers in New York, MTA employees are entitled to retirement benefits that are extravagant by private-sector standards. Roger Toussaint's members also enjoy a pension perk that is the envy of non-uniformed municipal workers: the ability to retire at half pay at age 55 after

just 25 years on the job (known as 55/25).

To cover such benefits, the authority has run up an unfunded pension liability of more than \$1 billion. While skyrocketing pension costs are stressing every level of government, the MTA represents New York's most acute pension-funding problem.

MTA management has asked the union to agree to increase the retirement age to 62 and to slightly increase (from 2 to 3 percent) the miniscule employee contribution to the pension fund. Because the state Constitution guarantees current pension benefits for current government employees, the change would only affect transit workers hired in the future.

But — as the TWU has pointed out in a formal complaint to a state labor board — the MTA's attempt to negotiate pension changes as part of the new contract flies in the face of the state Taylor Law, which makes it clear that "terms and conditions of employment" subject to negotiation with government unions "shall not include any benefits provided by or to be provided by a public retirement system, or payments to a fund or insurer to provide an income for retirees, or payment to retirees or their beneficiaries." (Indeed, as if to



Roger Toussaint (l.) is technically right: By law, TWU pensions are up to state lawmakers like Gov. Pataki (c.) and Speaker Sheldon Silver.

drive home the point, the same law says any negotiated deal on retirement benefits "shall be void.")

Pension benefits for government employees in New York are set in state law, not labor agreements. For that reason, the MTA actually hasn't been seeking Toussaint's agreement to change contract language — rather, the authority wants the union's permission to ask Gov. George Pataki and the state Legislature to change the law.

In the past, New York public-employee unions have been more than happy to negotiate side deals with their employers to petition the Legislature for pension increases. In 2000, for example, Pataki sealed a new contract with the state government's biggest union, the Civil Service Employees Association, by agreeing to seek the statutory elimination of pension contributions for CSEA mem-

bers with at least 10 years in the retirement system. The resulting law granted this costly benefit sweetener to every category of government employee in the state.

Indeed, beneficiaries of the CSEA deal included transit workers — who also reached their own side deal eliminating an additional employee contribution for 55/25 retirement.

More recently, as part of the city's new contract with the United Federation of Teachers, Mayor Bloomberg agreed to form a labor-management committee to develop a 55/25 pension bill for UFT members. (Yes, this is the same Mike Bloomberg who spent much of his first term complaining about the high cost of state-mandated pensions.)

But with the MTA seeking to make pension benefits less generous, it suits Toussaint's purposes to live by the letter of the Taylor Law. And so the union

has started a legal process aimed at barring any further mention of pensions in contract talks.

Theoretically, at least, two could play at this game. After all, the Taylor Law also makes it clear that Pataki, who ultimately controls the MTA, doesn't need the union's permission to propose a law restructuring pension benefits. Nor does the Legislature need the transit workers' permission to pass such a law.

The problem, of course, is that governors and legislators have long since given public-employee unions the unofficial power to veto any state legislation affecting their members.

Still, by trying to push the pension issue off the table — and into lawmakers' hands — the TWU may be doing taxpayers a favor. In the final analysis, the issue transcends these contract talks. Tweaking retirement ages and employee contributions for a single union won't solve the far greater problem of unaffordable and indefensibly lavish public pensions at every level of government in this state.

What New York really needs is a comprehensive reform shifting all future government workers to a retirement model that relies more on employer-subsidized individual accounts, such as the 401(k)s that predominate throughout the private sector.

In any case, the fight for public-pension reform shouldn't end in the meeting rooms of the Grand Hyatt. This buck stops in the State Capitol.

E.J. McMahon is director of the Manhattan Institute's Empire Center for New York State Policy.

E-mail: ejm@empirecenter.org