

Low Rates of Arbitration Use in the Public Sector

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Twenty-five states and the District of Columbia have laws encouraging public sector employers and unions to voluntarily negotiate collective bargaining agreements, with the possibility of an arbitrated settlement as a fallback when they are unable to resolve disputes on their own.¹ As 40 years of research demonstrates, the vast majority of contracts in these jurisdictions are settled voluntarily. Additionally, studies indicate that the number of voluntary settlements increases since the time the laws were enacted.

The following are findings from state-level studies of public sector arbitration:

Iowa

There was a very high rate of voluntary agreements during mediation; and specifically for teachers, there was a very low rate of arbitration use.²

Massachusetts

The Joint Labor-Management Committee was effective in encouraging voluntary settlements until 1980, when it was stripped of its right to impose binding arbitration.³

Michigan

In the six years between 1977-78 and 1982-83, an average of only 6.7% of negotiations resulted in an award.⁴

Nevada

In 1971, the governor was granted the authority to impose a binding award. In 1973, unions relied more on voluntary settlements than during the previous year.⁵

New Jersey

In 1996, NJ passed the Arbitration Reform Act. Voluntary settlements increased from 59% in 1996 to 80% in 1998.⁶

New York

Between 1995 and 2007, only 7% of firefighter and 9% of police negotiations required arbitration—significantly reduced from years after the 1974 law was passed.⁷

Wisconsin

In the first 8 years of the police and firefighter law, only 10% of all settlements were arbitration awards, and in the first 6 years of the teachers' law, only 5% of all settlements were awards.⁸

¹ States with voluntary or compulsive arbitration include: AK, CT, DE, DC, HI, IL, IN, IA, ME, MA, MI, MN, MT, NE, NV, NH, NJ, NM, NY, OH, OK, OR, PA, RI, TX, VT.

² Lester, Richard A. 1984. *Labor Arbitration in State and Local Government: An Examination of Experience in Eight States and New York City* (Princeton: Industrial Relations Section, Princeton University).

³ Lester, 1984.

⁴ Lester, 1984.

⁵ Grodin, Joseph R. 1974. "Arbitration of Public Sector Labor Disputes: The Nevada Experiment," *Industrial and Labor Relations Review*, 28, 1, 89-102.

⁶ McGill, John R. 1997. "An analysis of the effects of the 1995 New Jersey law on compulsory interest arbitration in fire and police departments," Unpublished report cited in Roberts, Gary E. and John R. McGill. 2000. "New Jersey Interest Arbitration Reform Act," *Review of Public Personnel Administration*, Summer.

⁷ Thomas Kochan, David Lipsky, Mary Newhart, and Alan Benson. "The Long Haul Effects of Arbitration: The Case of New York State's Taylor Law," Draft manuscript, January, 2008.

⁸ Lester, 1984.