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PROFILE OF COLLECTIVE BARGAINING AGREEMENTS in 1996

In 1997, the Bureau of Labor and Employment Statistics (BLES) conducted a study of all collective bargaining agreements (CBAs) filed in 1996, placing emphasis on their economic and non-economic provisions.

Data were sourced from the records of the Bureau of Labor Relations and DOLE-National Capital Region. A total of 721 CBAs were processed.

This article is the last of a two-part series. It centers on the descriptive analysis of the CBAs' non-economic provisions such as union security clauses, grievance handling procedures, union rights and privileges and other miscellaneous provisions.

Mid last year, the BLES published the profile and highlights of economic and non-economic provisions of CBAs filed in 1993, 1994 and 1995 through its LABSTAT Updates Vol. 1 Nos. 8, 9 and 12, respectively.

Union Security Clauses

These are provisions in CBAs designed to protect the institutional life of the unions. The common union security clauses are union shop, and maintenance of membership clause.

Of the union security clauses, ***maintenance of membership*** was mentioned in most CBAs accounting for 88.6 percent (639) of the total number of registered CBAs during the year. This clause is an agreement whereby employees who are members of the incumbent union must maintain their membership during the term of the CBA,

exempting the sixty-day period prior to its expiration as a condition for continued employment.

Union shop, cited in 36.9 percent of CBAs was the second most mentioned clause. It is an agreement whereby a newly hired employee must become a member of any of the existing unions within the company ***(open shop)*** or be a member of the duly certified bargaining agent ***(closed shop)*** after a certain period of time to retain employment.

About 4.0 percent (29) of the CBAs opted for a ***modified union shop*** clause.

Grievance Handling

*The **Labor Code** specifically states under **Article 260** that " The parties to a Collective Bargaining Agreement shall include therein provisions that will ensure the mutual observance of its terms and conditions. They shall establish a machinery for adjustment and resolution of grievances arising from the interpretation or implementation of their Collective Bargaining Agreement and those arising from the interpretation or enforcement of company policies."*

All grievances which remained unresolved within seven calendar days from the date of its submission shall automatically be referred to voluntary arbitration prescribed in the CBAs. For this purpose, the parties involved in the negotiation shall name and designate in advance a Voluntary Arbitrator or panel of Voluntary Arbitrators. All other labor disputes including unfair labor practices and bargaining deadlock may, upon agreement of both parties, be resolved through voluntary arbitration. The National Conciliation and Mediation Board monitors the disposition of voluntary arbitration cases and handles the accreditation of voluntary arbitrators.

However, for a labor dispute causing or likely to cause a strike or lockout in an industry indispensable to national interest, the Secretary of Labor and Employment may assume jurisdiction over the dispute and decide it or certify the same for compulsory arbitration. Other cases referred to compulsory arbitration are those arising from unfair labor practice (unless otherwise stated in the CBAs); involving wages, rates of pay, hours of work and other terms and conditions of employment accompanied by claims for reinstatement; claims for actual, moral, exemplary and other forms of damages arising from the employer-employee relations; cases arising from the violation of Article 264 of the Labor Code (prohibited activities in strikes/lockouts) including questions involving the legality of strikes and lockouts; and all other claims from employer-employee relations except for claims for Employees Compensation. Social Security, Medicare and maternity benefits, involving an amount exceeding P5,000 regardless of whether accompanied by claims for reinstatement. The National Labor Relations Commission handles all compulsory arbitration cases.

The decision of the Voluntary Arbitrators and the Commission is final and executory. However, it is appealable to the Supreme Court.

Some 83 CBAs (11.5%) included the provision for the ***creation of a grievance committee.*** This committee handles the resolution of grievances at the plant/establishment level.

Voluntary arbitration is the most preferred mode of settling unresolved grievances. It was specified in 92.5 percent (667) of the total filed CBAs during the year.

Only 4.2 percent (30) opted to settle their grievances through ***voluntary arbitration and/or compulsory arbitration.***

Twenty-two CBAs did not include provision for dispute settlement while two preferred ***compulsory arbitration***.

Manner of Sharing Cost of Voluntary Arbitration

Of the 667 CBAs which favored settlement of unresolved grievances through voluntary arbitration, 65.2 percent (435) agreed that ***the cost*** to be incurred during the proceedings and the voluntary arbitrators fee shall be **equally shared by labor and management.**

A few (4.9% or 33) cited that a ***bigger share shall be shouldered by management.***

More than one-fourth (28.9% or 189) did not specify any provision on the sharing scheme.

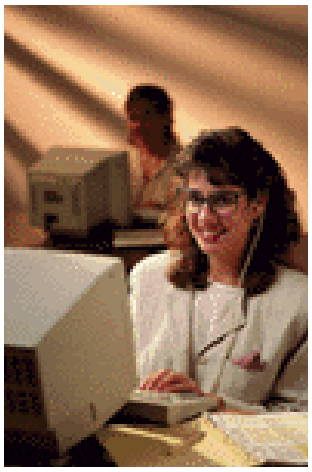
Other schemes cited were: ***loser shall pay the cost*** *(0.7%)* ***and expenses to be borne solely by management*** *(0.6%).*

Union Rights and Privileges

Special rights and privileges accorded to the workers by management include the provision of office space for union activities, use of bulletin boards to post official notices and announcements, granting of union leave benefit to union officers and members, use of office equipment like copying machine, facsimile and the like. Some CBAs include arrangements in the collection of certain fees to members of union and non-union members.

To generate funds for union activities, most unions require their members to contribute a portion of their salaries or union dues on a monthly basis. The amount of dues is fixed but differs among unions. In collecting these union dues, the union enters into an agreement with management to deduct from the payroll the agreed amount of contribution of each member and remit the total collection to the union in the form of a check. This arrangement is called ***check off.*** In 1996, check off was mentioned in 73.0 percent (526) of the CBAs.

In like manner, some 296 CBAs (41.1%) specified that non-members of the contracting union must pay the union an amount equal to the union dues known as the ***agency fees*** for the benefits they received as a consequence of the bargaining negotiations effected through the efforts of the union.



Union leave was cited in 53.1 percent (383) of the CBAs. Normally, this benefit Is provided to union officers and members for training and educational purposes.

Other special privileges provided to unions were: ***use of bulletin board*** *(30.4%)****; office space*** *(26.0%)****; and use of office equipments*** *(4.7%)****.***

Other Non-Economic Provisions

Article 277 (g) of the Labor Code, specifies that "The DOLE shall also help promote and gradually develop, with the agreement of labor unions and employers, labor-management cooperation programs at appropriate levels of the enterprise based on shared responsibility and mutual respect in order to ensure industrial peace and improvement in producivity, working conditions and the quality of life." In accordance with this provision, some 336 CBAs (46.6%) included the ***establishment or creation of Labor-Management Council*** in their CBAs.

Another miscellaneous provision that the negotiating parties found important to include in their CBAs was the ***establishment of safety mechanisms*** to provide workers with a safe working environment and health and safety services. This clause is cited in 330 CBAs (45.8%).