No more public-sector union monopoly

BY ERIC KRISS

In his famous 1776 *Inquiry into the Nature and Causes of the Wealth of Nations*, Adam Smith outlined the philosophical framework for our commercial society. Smith's key insight was that a division of labor—each contributing one's part to a larger whole—propelled economies forward, provided that open exchange occurred in a market free of monopolies. He specifically warned, "The price of monopoly is upon every occasion the highest which can be got."

While the language now seems quaint, Adam Smith's insight remains the foundation of capitalism. Unfortunately, we have strayed from his wisdom and created, at the very heart of our public life, a monopoly so powerful that it should rightly be called the fourth branch of government.

I refer to public employee unions.

For the first 173 years of our constitutional democracy, government employees (referred to as public servants back then) remained non-union even as trade unions became a familiar part of the American labor scene by the early 1900s. In 1962, President Kennedy issued Executive Order 10988, which allowed federal employees to join unions and bargain collectively for the first time.

Although Kennedy's Executive Order did not extend to the state and local level, a rush of new laws rapidly followed suit. In 1973, the Massachusetts Legislature enacted Chapter 150E, expanding union membership to all state and local government employment. Thirty years later, 90 percent of all Massachusetts public employees are unionized, including the entire executive branch, our schools, and our courts. Legislators and their staffs remain one of the few non-union islands.

Since President Kennedy's time, employment conditions have evolved, and private trade unions, once dominant, now represent less than one worker out of every 10. But in the public sector, unions retain a legal monopoly status that inoculates them against the dynamic changes occurring elsewhere in our economy.

What have we wrought? Has the introduction of a union monopoly aided the civic excellence we all desire? Or have we created inherent conflicts of interest at the very core of our public institutions?

I believe it is the latter. Let me outline the mechanics of monopoly that are at work in the public sector:

Step one: Public workers pay mandatory union dues, a pass-through of funds from taxpayers to unions via public employees.

Step two: Unions fund candidates who strongly back their special interests, and then encourage public employees to attend their political events. Of the 20 political action committees that gave the most to candidates for state and county offices in Massachusetts during the past election cycle, 16 were unions or other labor organizations, according to the Office of Campaign and Political Finance. Given the lack of an organized counterweight, union backing is especially powerful in school committee and other local elections. The winners of these contests then go on to run for the Legislature and other elective offices.

Step three: Union-backed legislators enact laws that differentially benefit unions and thwart attempts to keep union power in check. The cycle is self-perpetuating.

When the mechanics of monopoly fail to produce the desired result, there's always brute political strength. To impede independent appointments by Gov. Romney, for example, a union-backed bill currently making its way through the Legislature would require, for the first time in more than 40 years, approval by the Governor's Council of appointments to the Civil Service and Labor Relations commissions.

One impact of union monopoly is the wage premium public-sector employees enjoy compared with their private-sector counterparts. Public employees earn 12 percent more than private-sector employees for comparable jobs in eastern Massachusetts, according to the Bureau of Labor Statistics, even before adjusting for the value of generous benefit packages. This premium pay for public labor is a hidden tax paid by all Massachusetts citizens.

But the union monopoly does not just impact state and municipal employment. Public-sector unions influence public policy at every level. For example, public construction—roads, schools, and libraries—must follow union-backed rules that raise costs dramatically even when private contractors do the actual work. Our administration estimates that the construction premium is 20 percent or more. The option of contracting out the delivery of particular services to the private sector is effectively foreclosed by the union-backed Pacheco Law. Massachusetts is the only state in the nation to have such anti-competitive legislation.

Some will argue that this monopoly premium is not such a heavy burden to bear, and that unions provide insulation from what otherwise would be rampant cronyism and political favoritism. This is a specious argument. Today's employment laws provide ample protection against wrongful dismissal, retribution, and other abuses.

But the burden of this labor monopoly is indeed too heavy to bear. Union clout is the primary reason why government, at every level, seems to deliver less and less in spite of growing resources. Boston's school finances are illustrative.

Since the Education Reform Act of 1993, Boston's educational resources have expanded by almost 80 percent, boosted significantly by state aid contributions. Boston's public schools now spend $10,000 per student, more than the tuition at many Boston-area private and parochial schools. In fact, Boston's per-pupil spending increased by 13 percent over the past three years—a period marked by difficult contractions in the overall economy.

And yet we read press reports of widespread teacher layoffs. How can this be? The answer is monopoly power. The contract between the city and the Boston Teachers Union awarded average increases of 15 percent—unsustainable if resources grow only 13 percent. The result is teacher layoffs. And not just in Boston. As we struggle to emerge from recession, the average pay for private employees in Massachusetts grew only 1.5 percent last year. But average pay for public school teachers rose 5 percent. The differential—3.5 percent—more than accounts for the statewide loss in teaching positions.

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Boston and the BTU recently inked a new deal. While the contract advertises 9-to-13 percent increases over three years, the fine print provides for automatic escalators, or "steps," in addition to the contracted salary increases. This "double raise" adds another $5.6 million to the base cost of the contract each year. Many teachers will be guaranteed raises of 25 percent or more over the life of the contract. To make matters worse, the city has deferred some of the cost of the contract to later years, evidently gambling on a strong economic rebound and commensurate growth in state aid.

These comments should *not* be interpreted to mean that all teachers are paid too much. Even though the average Boston teacher's salary is now about $64,000, I believe the best teachers are *underpaid*. Unfortunately, we are not allowed to differentially reward high-performing teachers. That's because the monopoly forbids it. At the same time, the union has erected significant barriers to the removal of poor teachers, exacting an enormous toll on the overall quality of public education. The result is the evisceration of management, and a distortion of the labor-management balance.

This is a key point underscored in the Governor's Task Force on Underperforming School Districts, which issued its report in February. This bipartisan commission—chaired by Boston Foundation President Paul Grogan and including such notables as former state representative Mark Roosevelt, co-author of the Education Reform Act, and Boston School Superintendent Thomas Payzant—recommended that administrators be exempt from union membership, that a reasonable standard be set for evaluation and dismissal of teachers, and that there be more management flexibility for troubled schools.

The governor filed legislation in support of these recommendations. But at a subsequent hearing, legislators were reluctant to oppose the teachers unions' and watered down the recommendations.

Today, the hidden tax of union monopoly is so heavy that many municipalities crack under the strain. We need to focus on sustainability at the local level, a projection of costs and resources that goes beyond the simple accounting question of whether the annual budget is strictly balanced or not.

In April, the governor unveiled a new initiative to help cities and towns calculate their own "sustainability factor"—an expected growth rate that should match or surpass any collective bargaining agreement increase. If a contract exceeds the sustainability factor, an impact statement would detail what measures will be taken to ensure that municipal budget sustainability is preserved.

The 31-year experiment with a fourth branch of government has failed. It is time for the Legislature to reform the Commonwealth's collective bargaining laws and take back the labor monopoly granted in 1973. Among the immediate changes should be amending Chapter 150E to exempt from union membership high-level supervisors who would be considered managers in virtually any other workplace, along with repeal of the Pacheco Law. Although controversial in Massachusetts, these changes would simply begin to bring our laws in line with those in most other states. A first step was taken in May, when a special commission of legislators, members of the executive branch, and industry leaders recommended legislation to loosen the union-backed restrictions that drive up the cost of our public construction projects.

Opposition to a labor monopoly is not anti-union, just as opposition to a business monopoly is not anti-business. Massachusetts's failed experiment proves that Adam Smith had it right. The price of monopoly is on every occasion the highest which can be got. ■

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