

My name is Jim Salsgiver, and I am Chair of the Bennington-Rutland Supervisory Union, a member of the Taconic and Green Regional School District board and a member of the Vermont School Boards Association Board.

I am testifying with respect to H.81 which proposes to make several changes to the statewide school employee healthcare bargaining framework that came into being with Act 11 of 2018.

First, I would like to provide a bit of history, in hopes of providing some context to our current situation.

Negotiations: Pre-Act 11

Until Act 11 of 2018, like other school districts in Vermont, our district school boards negotiated with our school employees every several years to come to an agreement on healthcare benefits, salaries, working conditions and other elements of the employer – employee relationship.

This contract negotiation process has, however, been through some significant changes in recent years. With Act 154 and Act 156, negotiations were shifted from individual districts working with their school employees, to negotiating at the Supervisory Union level. That put us in a good place for contract negotiation when Act 46 led to the merger of many of our districts. Through these changes, we maintained good & solid relations with our school employees. Our school employees knew that we value them, that we care about them, and that we wanted to always be fair with them. They also knew that we represent many key stakeholders beyond our employees... We also represent our students and families. We represent community members. We represent taxpayers in our communities.

Through years of negotiations, both sides worked hard to build a relationship of mutual respect and trust – between our school boards and our school employees.

School employees understood that one of our major goals as a Board was to manage the costs of providing education to our students. After all, one of our biggest and most visible jobs every year was to produce a Budget for providing that education - to present that Budget to our voters – to seek their approval for what our communities would spend on educating our kids. There was no lack of understanding that all elements of school board/school employee negotiations were underpinned by a need to balance: (i) the salary and benefits of our school employees (which represent roughly 80% of costs); with (ii) the ability and willingness of our communities to support those costs.

The Affordable Care Act injected a new dynamic into this negotiating relationship - specific to school employee healthcare. And these changes were to be a real test as to whether that good relationship between school boards as employers, and our school employees - was going to help us reach a positive conclusion to negotiations, and maintain that relationship of mutual respect and trust.

The ACA made it clear that the healthcare plans provided to our most of our school employees were to be phased out. The rationale for that change in the ACA was pretty clear – the old plans were considered “Cadillac plans” and the ACA was shifting away from plans where beneficiaries had very low levels of cost share - in the hopes of bending the cost curve of healthcare insurance by incentivizing the users of healthcare to be more cost-conscious. While healthcare costs have continued to rise, I expect it is fair to say that experts believe this shift has helped bend the cost curve to some degree.

This shift was, however, a heavy lift early on in school board / school employee negotiations. Our school boards fully recognized the need to mitigate the cost shift to our school employees. And we discussed many alternatives, such as HRAs, HSAs or adjustments to other elements of compensation.

Our districts are fortunate enough to have some very smart and talented people in our business office, and we felt strongly that we could produce a win-win situation – where our employees could get a very fair replacement for their old healthcare benefits that they could view as win for them, while our districts could also achieve a degree of cost savings. We concluded that this could be best achieved through a combination of the new health plans and Health Savings Accounts. Initial reactions to our proposals were skeptical, in part because the VT-NEA had a negative view of HSAs. But, we felt confident that we could show our school employees the benefits of an HSA, an account owned by the employee – versus the HRA that was owned by the district and zeroed out at the end of each year. We had the benefit of one of our largest schools in the area being an independent school where most of our students attend high school. That school, Burr and Burton Academy, already provided their employees with higher deductible plans and HSAs. Thus, our employees were able to hear first hand about how that was working out for those BBA employees.

Ultimately, we had another positive negotiation between our school boards and school employees – and there was a large degree of satisfaction on both sides – that win-win we were looking for.

The shift to Act 11 and statewide Negotiations - Expectations

With that experience under our belt – when the idea of statewide healthcare negotiations came to the fore, many of us felt that this sort of outcome might be achieved on a statewide basis, and that would be a great outcome for students and school employees around the state. Not all school board members agreed with this direction, but many of us were hopeful. We knew that a positive outcome could be achieved, and we focused on the intent stated in Act 11 of 2018, Section H.23:

“it is the intent of the General Assembly that the Commission on Public School Employee Health Benefits endeavor to transition school employees and school employers to more equitable health care coverage statewide in a manner that is fair and practicable for all parties involved.”

As school boards, we had also been hearing, at the State level, a great deal of discussion about achieving fair outcomes for employees with cost savings for school districts.

This was very much brought to life when all school districts had a surcharge added to their Budgets for 2018 and 2019 via Act 86 of 2017, Sect. H.6 – the “healthcare recapture”. The expectation of the Legislature that cost savings could be achieved, while treating school employees fairly, was made very clear with this law, and the expected savings were made very tangible – as each district budget was being charged for those expected savings.

The shift to Act 11 – Lessons from Round One

The first round of statewide school employee healthcare negotiations seriously deflated those hopes of many school board members – like myself.

The inability of the two sides to reach an agreement without arbitration could, perhaps, have been predicted. But, two key outcomes from that negotiation were a bit more of a surprise – (1) the financial impact on our districts; and (2) a realization that the arbitration process has inherent problems.

Financial Impact

In terms of financial impact, we shifted from our earlier win-win outcome – consistent with the expectations in Act 86 of 2017 – to an increased burden of healthcare on our district finances. From FY2019 to our new budget for FY2022, health benefit costs have grown more than twice as fast as our overall operating budget (with a stable number of employees). And, in these several years, health benefit costs have grown from 14.8% of total

operating costs to 16.3%. Healthcare cost pressures are not new, but it quickly became clear that this first negotiation was increasing the immediate financial impact, and has significantly increased our budget exposure to future increases.

Another financial impact for districts of this negotiation round is added pressure on plan premiums – which impacts employees and employers. This impact is made clear in earlier H.81 testimony by Laura Soares, until recently the President of VEHI. The nature of the new healthcare benefits package is leading to higher healthcare premiums as it is inconsistent with creating the types of behavioral / spending shifts (bending the cost curve) that have been achieved with plans of the type adopted with the ACA.

Problems with the Arbitration Process

At the core of every negotiation is the question of how the outcome of the negotiation will impact each party. In statewide school employee healthcare negotiations those fundamental impacts are: (1) for employees - the quality of benefits provided to employees and the cost of those benefits to the employees; and (2) for employers - the quality of benefits provided to employees and the cost of those benefits to the employers.

A fair arbitration process requires sufficient consideration of those impacts on each party. And, when that arbitration process is a last-best-offer process (as in this case), it is of even greater import that the arbitration process is truly clear and fair – compared to a case where the arbitrator can choose elements from each party's offers. If the process can be viewed as skewed, then one party will not feel the pressure to truly provide a "best offer" in their "last-best-offer", and one should expect their focus to shift to managing the arbitration decision.

Certain provisions in the current law suggested that – like negotiations that had always taken place at the local level – arbitration would consider the impact on both parties. The law specified five factors that shall be considered by the arbitrator:

(i) the interests and welfare of the public; (ii) the financial ability of the Education Fund and school districts across the State to pay for the costs of health care benefits and coverage; (iii) comparisons of the health care benefits of school employees with the health care benefits of similar employees in the public and private sectors in Vermont; (iv) the average consumer prices for goods and services commonly known as the cost of living; and (v) prior and existing health care benefits and coverage for school employees.

However, it appears that this provision of the law was very much underappreciated or overlooked.

We can't truly know that, however, because the arbitrator's decision did not provide any level of detail to give a true read on what was considered. (H.81 does include a new provision to hopefully remedy the lack of any rationale being provided for the arbitrator's decision.)

During the arbitration process, employee commissioners argued that the cost to school districts of healthcare benefits to be provided to employees should not be a factor to be considered by the arbitrator. The arbitration process itself raised questions as to whether employer costs were being considered, and the fact that there appears to be some disagreement on this point by parties at the negotiating table, suggests strongly that more clarity in the law is required.

This is the shortcoming that school board members like myself are hoping to see corrected with H.81.

H.81 was considered alongside another proposed Bill, H.63. H.63 included provisions intended to provide greater clarity to: (i) the arbitration process; (ii) the factors to be considered by the arbitrator; and (iii) to the content of the arbitrator's decision. However, most of those provisions of H.63 were not incorporated in H.81.

The provisions missing in H.81 (that were proposed in H.63) are:

(1) Adding two factors to the list of five already to be considered in arbitration (and noted above):

“(vi) the actuarial value of the health benefits for the full term of the award proposed by each party as compared to health plans available through Vermont Health Connect; and (vii) the percentage increase or decrease in education spending that is likely to occur under either party’s proposal for the full term of the award as compared to overall economic growth for the State of Vermont.”

Actuarial value is a key measurement in healthcare insurance which should not be difficult to produce, and which can not be well replaced by a far more general idea like “costs”. Consideration of the impact on education spending provides an understandable connection to our education funding system.

(2) Adding language to 16 V.S.A. 2105(b)(3)(B) so that it reads (new language in bold):

"In reaching a decision, the **arbitrator or arbitrators shall determine which of the two submissions most appropriately balances appropriate access to health care benefits and reasonable cost containment to ensure the financial sustainability of the plan. The arbitrator or arbitrators shall also** give weight to the evidence, documents, written material, and arguments presented, as well as the following factors: "

These proposed changes are intended, and seem necessary, to further clarify the job of the arbitrator in these negotiations.

Conclusion

A fair takeaway from the first round of negotiations would seem to be that we did achieve a single healthcare agreement for school employees across the State, but we fell short on some key expectations / goals:

- (1) We did not achieve a win-win outcome for both employees and employers around the State; and
- (2) We did not make progress on bending the healthcare cost curve.

My school districts’ experience would suggest that these expectations / goals are still achievable. But changes to the negotiation process, like those suggested above, are necessary to replicate the success that was achieved at my districts on the local level, and at various school districts around the State.

Final Comments

As much of this testimony gets into the weeds of the negotiation process, I do feel that it is important to circle back to a point made earlier. I am testifying as a school board member. In that role, all school board members represent a wide range of key stakeholders. This testimony may seem to relate to trying to ensure a fair deal for just a part of that group - our students and families, community members and the taxpayers in our communities.

But, every school board member I know has the greatest respect for our school employees, and a true interest in ensuring the our employees also get a fair deal. School board members fully recognize the importance of treating our school employees well financially (and otherwise). We can’t do our job if we can’t maintain a high quality and motivated staff in our schools.

So, in advocating for a well-balanced and fair arbitration process I hope you will recognize that my goal is a fair process for school employees, as well as school boards. That is the balancing act that we accept when we take on the job of school board member.

Thank you for your time and attention.

Jim Salsgiver

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