Ohio Collective Bargaining: Public Employees
(current law prior to Ohio Senate Bill 5)

WHO?
Public Employer: the state or any political subdivision of the state
(i.e. county, city, township, school district, etc.)
Public Employee: a person employed or in the service of the public employer; exceptions include elected
officials; staff of legislative bodies; certain staff of executive offices; militia, etc.
Employee Organizations (Labor Unions/Associations): must be certified by the State Employment
Relations Board for the purpose of collective bargaining

State Employment Relations Board (SERB): administers the Ohio Public Employees Collective Bargaining
laws through a 3-member board appointed by the Governor.
SERB’s key function:
• Certifies local bargaining units
• Gathers and disseminates data related to collective bargaining contracts
• Investigates unfair labor practice charges
• Adjudicates the merits of complaints after investigation
• Provides impasse resolution services through mediation fact-finding and conciliation (binding
  arbitration)
• Collects and monitors financial filings by labor unions/associations
There are currently 3,290 contracts filed with SERB, which cover 358,276 public employees (state, local,
and boards of education).

Department of Administrative Services (DAS): serves as the principle representative of the State as an
employer and negotiates all of the State’s labor contracts. DAS is also the repository for state contracts.
There are currently 11 state contracts filed for the executive agencies, which cover 41,991 public
employees.

WHAT?
Collective Bargaining is defined in state law (RC 4117.01(G)) – the mutual obligation of the public
employer and the representatives of its employees to negotiate in good faith with respect to wages, hours,
terms, and other conditions of employment and the continuation, modification, or deletion of an existing
 provision of a collective bargaining agreement, with the intention of reaching an agreement, or to resolve
 questions arising under the agreement.

WHEN?
The term of a negotiated labor contract is typically 3 years.
WHY?
To strike a balance between the statutory rights granted to public employees under state law and the fiscal constraints of state and local governments. The dissonance was articulated by FDR in a letter (Aug. 16, 1937) to the Federation of Federal Employees.
“The desire of Government employees for fair and adequate pay, reasonable hours of work, safe and suitable working conditions, development of opportunities for advancement, facilities for fair and impartial consideration and review of grievances, and other objectives of a proper employee relations policy, is basically no different from that of employees in private industry. Organization on their part to present their views on such matters is both natural and logical, but meticulous attention should be paid to the special relationships and obligations of public servants to the public itself and to the Government. All Government employees should realize that the process of collective bargaining, as usually understood, cannot be transplanted into the public service. It has its distinct and insurmountable limitations when applied to public personnel management...”

HOW?
1. A notice to negotiate is filed with SERB and a case number is assigned to the parties involved.
2. The contract negotiation begins between the employer and the employee organizations.

STATE: The chief negotiator for the state agencies (employer) is the Director of DAS. He is assisted by department chiefs or their representatives and fiduciary staff. The labor organizations representing the public employees must be certified by SERB. Currently the DAS Office of Collective Bargaining negotiates with the Ohio State Troopers Association; State Council of Professional Educators; OEA/NEA; Ohio Civil Service Employees Association; AFSME; AFL-CIO; District 1199; SEIU; The Health Care and Social Service Union; Change to Win; CLC; and the Fraternal Order of Police.

LOCAL: The chief negotiator for a city is typically the law director. He is assisted by representatives from the different affected departments, the Finance Director, the Human Resource director, or possibly the Safety Services Director. At the county level, for example, the county sheriff may be the chief negotiator for law enforcement contracts. Local government agencies will sometimes hire a private attorney to assist with the negotiations. Each bargaining unit will provide a union representative (certified); a local union president and/or several union board members

One county executive described the process as “the sky is the limit” for the employee organization. But from the employer side there is a finite budget on one hand and the expectation that they will “start with the current terms and go up.”

3. If an agreement is reached, the final contracts are filed with SERB. If an impasse is reached on any term(s), then SERB will initiate a two-step conciliation process.

Step 1: Fact Finding
An attorney is assigned by SERB (neutral). He/she is responsible for gathering the facts presented by both sides; comparing the terms offered with comparable entities (cities of similar size); and mediating a settlement. He/she will attempt to “split the baby.”
Step 2: Binding Arbitration
If either side does not agree with the recommendation of the Fact Finding Report, then the process moves into conciliation, which is more accurately described as binding arbitration.
SERB appoints a conciliator. Prior to the binding arbitration hearing, the parties define the issues which need to be resolved. Each side has one chance to present its best case on each unresolved issue. The conciliator will choose one side's recommendation or the other on each issue separately. There is no splitting of the baby. For example, he/she might find for the union on wages and for the employer on health insurance. The decision of the conciliator is final and binding on both parties.

Binding arbitration was described by management staff as “draconian”; makes the arbitrator more powerful than locally elected officials; unresponsive to the financial inability of the city/county to meet the terms of the agreement; unfair. It was described by union members as an important tool to protect the needs of their families; something in their back pocket during the initial negotiations.

Note: Ohio Civil Service Protection is enumerated in the Ohio Constitution and state law (R.C. 124). Please see this memo prepared by the Ohio Legislative Service Commission (2/15/2011).

Other Helpful Information:
U.S. President Franklin D. Roosevelt’s (1933-1945) letter written to Mr. Luther C. Steward, President of the National Federation of Federal Employees:
Letter on the Resolution of Federation of Federal Employees Against Strikes in Federal Service
August 16, 1937

My dear Mr. Steward:

As I am unable to accept your kind invitation to be present on the occasion of the Twentieth Jubilee Convention of the National Federation of Federal Employees, I am taking this method of sending greetings and a message.

Reading your letter of July 14, 1937, I was especially interested in the timeliness of your remark that the manner in which the activities of your organization have been carried on during the past two decades "has been in complete consonance with the best traditions of public employee relationships." Organizations of Government employees have a logical place in Government affairs.

The desire of Government employees for fair and adequate pay, reasonable hours of work, safe and suitable working conditions, development of opportunities for advancement, facilities for fair and impartial consideration and review of grievances, and other objectives of a proper employee relations policy, is basically no different from that of employees in private industry. Organization on their part to present their views on such matters is both natural and logical, but meticulous attention should be paid to the special relationships and obligations of public servants to the public itself and to the Government.
All Government employees should realize that the process of collective bargaining, as usually understood, cannot be transplanted into the public service. It has its distinct and insurmountable limitations when applied to public personnel management. The very nature and purposes of Government make it impossible for administrative officials to represent fully or to bind the employer in mutual discussions with Government employee organizations. The employer is the whole people, who speak by means of laws enacted by their representatives in Congress. Accordingly, administrative officials and employees alike are governed and guided, and in many instances restricted, by laws which establish policies, procedures, or rules in personnel matters.

Particularly, I want to emphasize my conviction that militant tactics have no place in the functions of any organization of Government employees. Upon employees in the Federal service rests the obligation to serve the whole people, whose interests and welfare require orderliness and continuity in the conduct of Government activities. This obligation is paramount. Since their own services have to do with the functioning of the Government, a strike of public employees manifests nothing less than an intent on their part to prevent or obstruct the operations of Government until their demands are satisfied. Such action, looking toward the paralysis of Government by those who have sworn to support it, is unthinkable and intolerable. It is, therefore, with a feeling of gratification that I have noted in the constitution of the National Federation of Federal Employees the provision that "under no circumstances shall this Federation engage in or support strikes against the United States Government."

I congratulate the National Federation of Federal Employees the twentieth anniversary of its founding and trust that the convention will, in every way, be successful.

Very sincerely yours,

Mr. Luther C. Steward,
President,
National Federation of Federal Employees,
10 Independence Avenue, S.W., Washington, D.C.

APP Note: Although this letter appears to be signed, "Very sincerely yours, Mr. Luther C. Steward, President, National Federation of Federal Employees, 10 Independence Avenue, S.W., Washington, D.C.," the letter is from Roosevelt to Steward. The placement of the addressee's name and address at the bottom of the document was an editorial decision in the original "Public Papers and Addresses of Franklin D. Roosevelt." The American Presidency Project's policy is to reproduce documents in their original form.