

# SERB Conference on the 25th Anniversary of Collective Bargaining in Ohio's Public Sector

Wednesday and Thursday, April 1-2, 2009

University Plaza Hotel and Conference Center  
3110 Olentangy River Road, Columbus, Ohio 43202

This conference has been approved by the Supreme Court of Ohio Commission on Continuing Legal Education for 9.50 total CLE credit hours, including 9.50 general CLE credit hours, with 0.0 hour of ethics, 0.0 of professionalism, and 0.0 hour of substance abuse instruction.

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## **How have the years shaped collective bargaining under O.R.C. Chapter 4117?**

Twenty-five years to the day after SERB opened its doors for the first time, the agency will convene an extraordinary conference to examine how administrative practice, rule-making, legislative amendments, and hundreds of Board opinions and court decisions have shaped the Ohio Public Employees' Collective Bargaining Act, which extended collective bargaining rights to state and local public employees in Ohio.

We begin with a review of the legislative activity leading to the statute's 1983 enactment and of the report of the P.E.A.C.E. (Public Employment Advisory and Counseling Effort) Commission that evaluated SERB's performance after the first two years.

That review is amplified by a discussion of how the Act was originally implemented, involving both those at SERB who created the first administrative procedures and rules, and those in the labor-management community who had to comply with them.

Since repeal of the 1947 Ferguson Act and extending the right to strike to public employees was the most controversial element of the new law in 1984, we also examine what its result has been and what it means in 2009 and for the future.

We then look at how bargaining was conducted in its early days, breaking into concurrent workshops of major bargaining sectors: public schools and higher education; city and county safety-forces; and state, city, and county non-safety-force employees.

We will continue our analysis of the evolution of the act with three sets of concurrent workshops. The first examines the evolution of arbitration of contract disputes in fact finding and conciliation; the adjudication of unfair labor practice disputes through investigation, mandamus, mediation, and administrative hearings; and unique issues of collective bargaining for education employees.

The second set of workshops looks at resources for researching credible data for bargaining; challenges facing unions; and challenges facing employers.

The third set of workshops focuses on how bargaining is conducted in today's shrinking economy: staffing adjustments – job classification changes and layoffs; changes in the design of health care benefits; and changes in budgeting and funding.

The conference's final session turns to an evaluation of prospects for the next decade of state and local collective bargaining in Ohio.

## Agenda

### Wednesday, April 1, 2009

9:00 Registration and Continental Breakfast

9:30 Welcome, Announcements and Introductions

9:45. 1983 Legislative Activity

MODERATOR: **N. Eugene Brundige**, Chairperson, SERB; PANELISTS: **The Honorable Eugene Branstool**, former State Senator, sponsor of S.B. 133; **The Honorable Richard C. Pfeiffer, Jr., Esq.**, Columbus City Attorney and a State Senator at the time of the Act's passage; **Jim Petro, Esq.**, Waite, Schneider, Bayless & Chesley, former Ohio Attorney General and Auditor of State, former ranking minority member of the House Commerce and Labor Committee; **Michael G. Verich, Esq.**, Vice Chairperson, SERB, former Chairman of the Ohio House Commerce and Labor Committee and Chairman of the Select Commerce and Labor Sub-committee reviewing Ohio's 1983 Public Employees' Collective Bargaining Bill.

10:45 The P.E.A.C.E. (Public Employment Advisory and Counseling Effort) Commission and Its Report

**Dwight A. Washington, Esq.**, Cooper, Gentile & Washington Co., LPA, Dayton, member of the P.E.A.C.E. Commission.

11:00 Break

11:15 Implementing the Act at SERB

MODERATOR: **G. Thomas Worley, Esq.**, Chief of Staff, Ohio Secretary of State, Administrator of the Bureau of Mediation at SERB's inception; PANELISTS: **William M. Denihan**, Chief Executive Officer, Cuyahoga County Community Mental Health Board, Acting Executive Director of SERB at the time of its opening; **Jacquelin F. Drucker, Esq.**, Arbitrator, N.Y., SERB's first General Counsel, later Executive Director and Board Vice Chairperson, author of *Collective Bargaining Law in Ohio*.

12:15 Lunch Speaker: **The Honorable Harry Meshel**, President of the Ohio Senate at the time of the passage of the Ohio Public Employees' Collective Bargaining Act

1:15 Implementing the Act at SERB - Practitioners' View

MODERATOR: **Craig R. Mayton, Esq.**, Former Board Chairperson, SERB; PANELISTS: **Sandra M. Furman, Esq.**, SERB Roster of Neutrals, who was Legal Counsel to AFSCME, Ohio Council 8 at the time of implementation of the Act; **Ted Clemans**, Labor Arbitrator, founder of Clemans-Nelson and Associates, management consultants; **Warren J. Smith, Esq.**, Stewart Jaffy and Associates Co., L.P.A., Columbus, Secretary-Treasurer, Ohio AFL-CIO, 1968-1986.

2:15 The Ferguson Act, the Right to Strike and the impact of O.R.C. Chapter 4117

MODERATOR: **Linda K. Fiely, Esq.**, *General Counsel, Ohio Education Association*; PANELISTS: **Pamela L. Margulies, Esq.**, Chairperson, Ohio Board of Tax Appeals, and former General Counsel, Ohio Education Association in 1984; **Ronald G. Linville, Esq.**, Partner, Baker & Hostetler, LLP, Columbus.

2:45 Break

3:00 Concurrent Workshops: Early Days of Bargaining (Choose one)

A. Education and Higher Education Employees

MODERATOR: **Craig E. Young**, Mediator, SERB; PANELISTS: **Bill Mulbarger**, Executive Director of Human Resources, Dublin City Schools and former OEA lobbyist; **Donald C. Scriven, Esq.**, Scott, Scriven & Wahoff, LLP, Columbus; **Nicholas A. Pittner, Esq.**, Partner, Bricker & Eckler, LLP, Columbus; **Eric D. Fingerhut, Esq.**, Chancellor, Ohio Board of Regents, former Congressman and Ohio State Senator.

B. City and County Safety-Force Employees

MODERATOR: **John P. Gray**, Mediator, SERB; PANELISTS: **Susan J. Cave**, Executive Director, Ohio Municipal League; **Paul Cox, Esq.**, Chief Counsel, FOP/OLC, Inc.; **Lefty Sanders**, former President, Ohio Association of Professional Firefighters; **Marsha Jordan-Smart**, Human Resources Director, Greene County Commissioners.

C. State, City, and County Nonsafety-Force Employees

MODERATOR: **Anton J. Naess**, Mediator, SERB; PANELISTS: **Mike Duco, Esq.**, Deputy Director, Office of Collective Bargaining (OCB), State of Ohio; **Russ Murray**, Executive Director, Ohio Cast Metals Association; **R. Sean Grayson, Esq.**, General Counsel, AFSCME Ohio Council 8, AFL-CIO.

4:00 Adjourn

6:00 Dinner Keynote Speaker: Former Ohio Governor **Richard F. Celeste**, who signed the bill into law in 1983.

### Thursday, April 2, 2009

9:00 The Advancement of Collective Bargaining

MODERATOR: **Sherrie J. Passmore, Esq.**, Executive Director, SERB; PANELISTS: **Robert W. Sauter, Esq.**, Partner, Cloppert, Latanick, Sauter & Washburn, Columbus; **Jonathan J. Downes, Esq.**, Founding Partner, Downes, Hurst & Fishel, LLP, Columbus; **Susannah Muskovitz, Esq.**, Faulkner, Muskovitz & Phillips, LLP, Cleveland; **George S. Crisci, Esq.**, Zashin & Rich Co., L.P.A., Cleveland and Columbus.

10:30 Break

10:45 Concurrent Workshops: The Evolution of Bargaining (Choose one)

- A. Fact Finding and Conciliation: Process Review – The Evolution of the Fact-finding procedure in the First 25 Years of Public Sector Collective Bargaining

MODERATOR: **N. Eugene Brundige**, Chairperson, SERB; PANELISTS: **Mitchell B. Goldberg, Esq.**, Fact Finder and Conciliator, SERB Roster of Neutrals; **Frank A. Keenan, Esq.**, Fact Finder and Conciliator, SERB Roster of Neutrals; **James T. O'Reilly, Esq.**, Professor of Law, College of Law, University of Cincinnati, former Fact Finder and Conciliator, SERB Roster of Neutrals, and author of *Ohio Public Employee Collective Bargaining*.

- B. Unfair Labor Practices: Investigations, Mandamus, Mediations and Hearings. Is the ULP process effective in promoting orderly and constructive labor relations?

MODERATOR: **Robert F. Spada**, Board Member, SERB and former State Senator; PANELISTS: **Donald L. Crain, Esq.**, Frost Brown Todd LLC, City Solicitor, Village of Indian Hill, Ohio, Law Director, West Chester, Ohio, and General Counsel, Middletown City Schools; **Michael J. Hunter, Esq.**, Hunter, Carnahan, Shoub & Byard, Columbus; **Larry Braverman, Esq.**, Director of Legal Services and General Counsel, Columbus City Schools, and former Assistant Ohio Attorney General.

- C. Unique Issues of Collective Bargaining for Education Employees: The Act's impact on these public employees and employers and prescribing a "fix"

MODERATOR: **Edward E. Turner**, Administrator, Bureau of Mediation, SERB; PANELISTS: **Susan Hayest Kozlowski, Esq.**, Partner, Cloppert, Latanick, Sauter & Washburn, Columbus, and former Assistant Ohio Attorney General; **Helen S. Carroll, Esq.**, Partner, Roetzel & Andress LPA, Akron, and former Assistant Ohio Attorney General; **Sue Taylor**, President, Ohio Federation of Teachers.

11:30 Concurrent Workshops: Problems in Bargaining (Choose one)

- A. Gathering creditable information for bargaining

MODERATOR: **Brian Eastman, Esq.**, Mediator, Bureau of Mediation, SERB; PANELISTS: **Douglas Corwon**, Mediator, Federal Mediation and Conciliation Service, Cleveland; **Harry Graham**, Fact Finder and Conciliator, SERB Roster of Neutrals; **Dennis E. Minni, Esq.**, Fact Finder and Conciliator, SERB Roster of Neutrals.

- B. Internal union challenges while bargaining

MODERATOR: **Robert W. Sauter, Esq.**, Partner, Cloppert, Latanick, Sauter & Washburn, Columbus; PANELISTS: **Susan D. Jansen, Esq.**, Doll, Jansen & Ford, Columbus; **Mark Sanders**, President, Ohio Association of Professional Firefighters; **Joseph M. Hegedus, Esq.**, Ohio Patrolmen's Benevolent Association (O.P.B.A.).

- C. Internal employer challenges while bargaining

**Douglas E. Duckett, Esq.**, Personnel Director and Labor Counsel, Butler County Commissioners and Past President of the National Public Employer Labor Relations Association (NPELRA); **Donald M. Collins, Esq.**, Senior Attorney, Department of Law, City of Toledo and former Assistant Ohio Attorney General.

12:15 Lunch Speaker: **The Honorable Thomas J. Moyer, Esq.**, Chief Justice of the Ohio Supreme Court

1:15 Concurrent Workshops: Bargaining in a shrinking economy (Choose one)

- A. Staffing Design (job classification changes, layoffs, etc.)

**Carol Bowshier**, Director of Administrative Services and Health Care Policy, Ohio Civil Service Employees Association, AFSCME Local 11; **Robert W. Cross**, President and Founder of Cross Management Consulting Services, Inc.

- B. Health Care Design

MODERATOR: **Gregg M. Gascon, Ph.D.**, Education Research Development Consultant, Ohio Education Association; PANELISTS: **Egdilio J. Morales, Esq.**, Chief Negotiator and Manager, Office of Human Resources, Division of Labor Relations, Cuyahoga County Commissioners; **Sandy McNair, Esq.**, Partner, Schwarzwald & McNair, Cleveland.

- C. Budgeting and Funding

MODERATOR: **Jonathan J. Downes, Esq.**, Founding Partner, Downes, Hurst & Fishel, LLP, Columbus; PANELISTS: **Deborah A. Feldman**, County Administrator, Montgomery County Commissioners; **Robert G. Stein**, Fact Finder and Conciliator, SERB Roster of Neutrals; **Fritz Fekete**, Director of Information Systems and Research, Ohio Education Association.

2:00 Break

2:15 Plenary: Public Sector Collective Bargaining – Looking at the Next Decade

**The Honorable Tom Sawyer (Thomas C.)**, Member of the Ohio State Senate representing the 28th District, Mayor of Akron, 1983-86, member of the U.S. House of Representatives representing Ohio's 14th Congressional District, 1987-2003; **The Honorable Andy Douglas**, Executive Director, Ohio Civil Service Employees Association (OCSEA) and former Ohio Supreme Court Justice, 1985-2002; **Joseph P. Rugola**, President of the Ohio AFL-CIO and Executive Director of the Ohio Association of Public School Employees (OAPSE); **E. Pete Nevada, Esq.**, Director of Research and Development and member of the Board of Directors, Clemans-Nelson and Associates, management consultants.

3:15 Adjourn

### Registration

- \$350 Two Days (includes lunches and dinner)**
- \$195 One Day (includes lunch)**
- \$30 Add dinner to first day**

Fee includes all sessions, course materials, continental breakfast and meals as indicated. Reservations not accompanied by full payment will be invoiced upon receipt. Reservations must be received by 5:00 p.m. on Tuesday, March 24, 2009. Reservation may be made by completing and mailing or faxing the attached form to: SERB 25th Anniversary Conference, State Employment Relations Board, Fiscal Office, 65 East State Street, 12th Floor, Columbus, Ohio 43215-4213 Fax: (614) 466-3074

### Cancellation Policy

A full refund will be made for written cancellations received at SERB's Columbus office by 5:00 p.m. on Tuesday, March 24, 2009. No refund can be made for cancellations received after the prescribed time, but substitutions may be made at any time.

### Hotel Accommodations

PLEASE CONTACT CONFERENCE FACILITIES DIRECTLY  
University Plaza Hotel and Conference Center  
3110 Olentangy River Road  
Columbus, Ohio 43202

Telephone: (614) 267-7461 Fax: (614) 456-1157 Toll-free reservations: (877) 677-5292  
e-mail: [alberta.burke@universityplazaosu.com](mailto:alberta.burke@universityplazaosu.com)  
web: [www.universityplazaosu.com](http://www.universityplazaosu.com)

***You may wish to bring a fully-charged laptop to view conference materials.***

### RESERVATION

Name \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Area Code, Telephone, FAX \_\_\_\_\_

E-mail Address \_\_\_\_\_

Representing \_\_\_\_\_

Please check here if you require any special accommodation. List type of accommodation required:

\_\_\_\_\_  
\_\_\_\_\_

Please attach a separate sheet listing name, address, e-mail address, telephone number and fax number for each **additional** person in your party.

Both days (includes Day 1 dinner) \$350

Day 1 only \$195

Day 1 dinner \$30

Day 2 only \$195

Total Amount Due: \$ \_\_\_\_\_

CHECK ONE:

Check enclosed: \$ \_\_\_\_\_

Purchase order #: \_\_\_\_\_

Invoice me / my organization.

Attention: \_\_\_\_\_

Make checks payable to SERB and return with this form to:  
25th Anniversary, State Employment Relations Board, Fiscal Office, 65 East State Street, 12th Floor, Columbus, Ohio 43215-4213. Fax: (614) 466-3074.

### CONCURRENT WORKSHOPS REGISTRATION

Please indicate by checking the boxes the concurrent workshops you plan to attend:

#### Wednesday, April 1, 2009

3:00 p.m. Early Days of Bargaining (CHOOSE ONE)

- A. Education and Higher Education Employees
- B. City and County Safety-Force Employees
- C. State, City, and County Nonsafety-Force Employees

#### Thursday, April 2, 2009

10:45 a.m. The Evolution of Bargaining (CHOOSE ONE)

- A. Fact Finding and Conciliation Process Review
- B. Unfair Labor Practices
- C. Issues for Education Employees

11:30 a.m. Problems in Bargaining (CHOOSE ONE)

- A. Gathering credible information for bargaining
- B. Internal union challenges while bargaining
- C. Internal employer challenges while bargaining

1:15 p.m. Bargaining in a shrinking economy (CHOOSE ONE)

- A. Staffing Design
- B. Health Care Design
- C. Budgeting and Funding