BART Board of Directors unilaterally amend union-approved contract

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On November 24, the Board of Directors of Bay Area Rapid Transit (BART), the largest public transportation system in Northern California, modified and voted for a labor contract that had been approved by the Service Employees International Union (SEIU) and the Amalgamated Transit Union (ATU) just three weeks previously.

The directors voted 8-1 to accept the contract while rejecting a clause allowing paid family medical leave to workers. BART managers have argued that they had never agreed to the clause, and it was included as the result of a clerical error.

The ATU has estimated that the clause will result in costs of a mere $1.4 million per year over the four years of the contract's effectiveness. It is a relatively minor issue in comparison, for example, to the agreement between management and the unions to significantly increase pension and health care costs for workers.

The action expresses the vindictiveness of BART management, backed by the entire political establishment, which is determined to extract as much as possible from the workers.

The move came a month after the latest strike by transit workers, which was called off by the unions after only four days, on the basis of an agreement that accepts most of management's key demands. It was the second strike of transit workers that was quickly called off (following one in July), as the unions worked to isolate the struggle and prevent it from developing into political conflict with the Democratic Party, including Governor Jerry Brown, whom they support.

Workers voted to approve a contract that management had submitted to them on November 1. The vote was held under severe pressure from union leaders. The media generally presented the contract as a win for the workers, containing significant concessions to them. In fact, the contract does contain significant concessions, but in the opposite direction. Pay raises contained in the contract are more than compensated through reduced pension and health care benefits.

The state has already spent millions of dollars on its dispute with BART workers, including the budgetary consequences of an estimated total economic loss of $73 million for each of the eight days of the two strikes, as well as $420,000 paid to former chief BART negotiator Thomas Hock, who was absent at the negotiations last month when the offending clause supposedly slipped in.

Following the Board decision, leaders of SEIU Local 1021, which represents BART mechanics and custodians, said that they are "considering all options." Union negotiator Josie Mooney has called the board's action "illegal." However, union leaders, including president of ATU 1555 Antonette Bryant, have said that there is no chance at all that the trains will stop running.

Instead, it is possible that the unions will instigate a lawsuit against BART management. Such a lawsuit would be a futile appeal to the same state that took a hardline stance and imposed a 60-day injunction against the strike. The lawsuit could go on for months while workers will continue to work under the terms of the old contract that expired in July—a situation with which union leaders have been and will be more than comfortable.

In the BART dispute, the lawsuit the unions filed in July did not prevent management from winning new concessions from workers in negotiations, nor did it do anything to stop management's unfair labor practices. That lawsuit is currently pending in Alameda County court.

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National Labor Relations Board chairman Bill Gould told the *Contra Costa Times* that even if the unions win the lawsuit it will not significantly affect the contract because “BART’s argument is rooted just as much in an inability to pay as it is in its assertion that it didn’t agree to the family leave provision,” and BART would maintain control over its budget regardless of court results.

The unions will conduct only symbolic opposition to management’s cuts because they entirely accept BART’s budgetary framework.