

Publication: Jnl Final Edition 8/2005-today; Date: Aug 18, 2008; Section: Front Page; Page: A1



## City Council To Debate Arbitrator Policy Tonight

Copyright © 2008 Albuquerque Journal By Dan McKay Journal Staff Writer

A proposal up for debate by the City Council tonight could give an unelected arbitrator final say over important management issues, such as scheduling and zero-tolerance for drug use by employees in sensitive jobs, administration officials contend.

But two city councilors pushing the measure say it's simply a way to ensure the administration negotiates fairly with unions that represent city workers.

Councilors Debbie O'Malley and Rey Garduño are proposing that either the city or its unions be allowed to force binding arbitration for "noneconomic issues," such as how employee grievances are handled.

It would be a "big change," O'Malley said. "It will encourage people to come up with a resolution. Neither side wants to go to binding arbitration."

Ed Adams, the top executive under Mayor Martin Chávez, says the proposal would have the opposite effect. Unions wouldn't have much incentive to negotiate if they believed an arbitrator would give them the upper hand, he said.

He said union groups have wanted, for example, to arbitrate the city's zero-tolerance policy for drug use by employees in sensitive jobs.

O'Malley said she's open to amendments that would clarify to what extent antidrug rules can be the subject of arbitration. "I would never do something to undermine the safety of the citizens or the employees," O'Malley said.

The bill could also strengthen union efforts to decide where employees work and when, Adams said, limiting the city's ability to provide services.

"We can't put ourselves in a position that an arbitrator is making decisions about public safety and how we run the city," Adams said. "That's just ridiculous."

The proposal comes at a difficult time for city unions and management. Employees represented by the American Federation of State, County and Municipal Employees picketed outside City Hall this summer after their union contracts expired. They want better pay, among other things, and say the City Council set aside more money for raises than the administration is offering.

O'Malley and Garduño introduced their proposal in June and tried to get councilors to hear it earlier this month but couldn't get enough votes to put it on the agenda. Instead, the bill is scheduled for consideration at the full council meeting tonight.

The proposal says that after mediation, either the city or the union "shall have the power to impose binding arbitration as a method of resolving the impasse" — but only for "non-economic issues."

The city's existing labor regulations allow the sides to enter "voluntary" arbitration to settle contract talks, including pay raises. But there are limits on what the arbitrator is allowed to impose when it comes

to finances.

O'Malley said the proposed change is important. Employees have little leverage in negotiations because they can't strike, and the administration can impose a contract in certain circumstances.

She amended the bill last week in response to some of Adams' concerns. The proposal now says "management rights" aren't subject to binding arbitration. She also changed the bill to say that "non-economic issues" are those that "shall result in no increased cost" to the city.

"I don't think it's fair to have a contract imposed without going through a fair negotiation process," O'Malley said. The bill offers "a level playing field for those who labor and those in management."

Paul Broome, an adviser to the mayor, said O'Malley's amendments don't go far enough. "There are still some serious problems," he said.

O'Malley's amendments helped address that somewhat, officials said.

"We need to be able to move staff to address problems or issues as they arise," such as launching a new bus route, Adams said.

The bill could also allow unions to take several stabs at the same issue, he said, by demanding arbitration on the topic every time a contract expires. The proposal might also interfere with the legality of the city labor ordinance, which is allowed under a grandfather-clause exception to the state labor statute, he said.

Albuquerque will lose its exception to the state statute if it makes "substantial" changes to the labor ordinance.

The council bill has a clause in it intended to make sure that it isn't considered a substantial change that would harm the overall ordinance, but administration officials are still uneasy about it.

Andrew Padilla, president of the state chapter of AFSCME, said the proposal is a matter of fairness because the unions now "have no recourse except District Court" in disputes with the city.

Observers expect a close vote. It would take a majority of the nine-member council to pass the bill and two-thirds of the council to override a mayoral veto.

Councilor Trudy Jones said the bill would provide less incentive to work together and "work things out" cooperatively. Don Harris said the city has a good work force, but he's concerned about passing a bill while negotiations are ongoing. "This is something that needs a lot of study," he said.