

What BART Wanted

vs. Labor Demands of 2013 Strike

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Background



As Contract Expires– Issues

- ▶ Contracts with BART's five labor unions expired June 30, 2013.
 - Need for negotiation of new 4-year contract.
 - It's been 16 years since the last BART strike.
- ▶ Service Employees International Union (SEIU) Local 1021 and the Amalgamated Transit Union (ATU) Local 1555 represent majority of workers.
- ▶ **Biggest management issue** is that other transit agencies require their employees to contribute to their pension plan either paying a percentage of the pay or a percentage of the total cost of the plan.
- ▶ Other transit employees pay anywhere from 3%–10.5% of their pay:
 - Los Angeles– MTA
 - Atlanta– MARTA
 - Chicago– CTA
 - Boston– MBTA
 - New Jersey – NJT
 - Denver– RTD
 - San Diego– RTD
 - Pittsburgh– PAT

BART PRE-TALK POSTURING

- ▶ Contract negotiations are about BART's ability to keep the system reliable and the Bay Area mobile for the years to come.
- ▶ BART needs about \$500 million annually to replace outdated computers and other systems to keep trains running on-time and at optimal speeds.
- ▶ BART needs to replace and grow the fleet of trains cars at a cost of \$3.1 billion.
- ▶ Recently a team of the world's top transportation researchers issued a report, which found that if BART is to continue serving the Bay Area efficiently, it must achieve savings today to ensure its reliability tomorrow.
 - The research team says BART is critical to keeping the Bay Area moving.
 - The report shows BART's 95% on-time performance is the top reason people choose to ride rather than drive.

*BART: Celebrating 40 Years of Service to the Bay Area A State of Good Repair for BART:
Regional Impacts Study What Could Happen if BART Fails To Maintain A State of Good Repair, May 2012*

BART POSTURING Part 2

“If BART can't find the savings to maintain that reliability it will cause tens of thousands of riders to become frustrated with BART and switch to driving. As a result those former BART riders will have to spend up to an additional \$1,100 annually on bridge tolls, gas, vehicle maintenance and parking fees.”

“The Bay Area would experience big increases in commute times. For example, experts calculate a BART ride between Walnut Creek and San Francisco will increase by 30 minutes each day.”

“Modernizing the system to meet future demands will require a shared responsibility and significant investment from all Bay Area stakeholders: BART employees; riders; elected officials; and the community.”

Quotes from *BART: Celebrating 40 Years of Service to the Bay Area A State of Good Repair for BART: Regional Impacts Study What Could Happen if BART Fails To Maintain A State of Good Repair*, May 2012

Union Demands “Outrageous”

- ▶ BART employees already the top-paid transit system employees in the region and among the best in the nation.
- ▶ They have free pensions, health care coverage for an entire family for just \$92 a month and the same medical insurance deal when they retire after just five years on the job.
- ▶ They work only 37½ hours a week.
- ▶ They can call in sick during the workweek and then volunteer for overtime shifts on their days off.
 - These rules exacerbate out-of-control overtime that in 2012 added an average 19% to base pay for station agents and 33% for train operators.
- ▶ Workers demand 23 percent salary increases over the next four years.

“As to union claims that this is all about safety-- how stupid do they think the public is?”

7/1/13 San Jose Mercury News editorial: *BART union demands are outrageous*

Issue: BART Pension Underfunded

	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12
Pension Cost \$M	\$26	\$39	\$41	\$44	\$45	\$44	\$44	\$50
Pension as % of "Regular Pay"*	14%	21%	22%	23%	22%	22%	22%	25%
Unfunded Liability \$M	(\$133)	\$8	\$57	\$98	\$97	\$75	\$75	\$158

*Wages paid for time worked

BART Retirement Plans

- ▶ BART 457 Deferred Compensation Plan (similar to 401(k))
 - Established under Section 457 of the Internal Revenue Code
 - Allows for deferral of the payment of compensation until retirement
 - The amount deferred and paid into the Plan, and the earnings on those amounts, are not included in current income for tax purposes
 - The funds are not taxed until receipt of a distribution from the plan
 - May be maintained only by state or local governments or tax exempt employers
 - For 2013, the normal maximum contribution limit is \$17,500 with additional Age 50+ catch-up contribution of up to \$5,500
 - Total contribution limit (including age 50+ catch up) is \$23,000
 - Note: "Pre-Retirement" catch-up provision allows employee to make additional contributions to Deferred Compensation Plan to make up for years in which the employee did not contribute the maximum permissible amount.

BART Retirement Plans 2

- ▶ BART 401(a) Money Purchase Plan
 - Money Purchase Pension Plan contribution depends on the union membership
 - Employees eligible:
 - Full-time or part-time employees and members of Amalgamated Transit Union ("ATU") Local 1555,
 - American Federation of State, County and Municipal Employees ("AFSCME") Local 3993
 - Participants who are not represented by any union; and
 - Full-time employees (but not part-time employees) who are members of the Service Employees International Union ("SEIU") Local 1021:
- ▶ BART contributes 6.65% of “compensation” annually up to a maximum annual contribution of \$1,868.65. (After next year employee will contribute 1% and BART 5.65%, employee contribution increasing +1% each year for 4 years.)
 - "Compensation" means all pay for the year **except**:
 - Pay in excess of \$29,700;
 - The first \$133.33 of the participant's pay each month and
 - Any payment which would not be subject to FICA tax if the participant were covered by the federal Social Security system.
- ▶ The following groups not eligible for contributions:
 - BART Police Officers Association, BART Police Managers Association, and part-time employees who are members of the SEIU Local 1021.

Issue: Cost of Benefits

Year	Average Base Pay	Average Benefits Cost	Benefits as a Percent of Base Pay
2001	\$58,000	\$17,500	30%
2002	\$60,500	\$20,000	33%
2003	\$65,100	\$18,300	28%
2004	\$68,200	\$20,500	30%
2005	\$72,700	\$29,000	40%
2006	\$72,900	\$33,200	46%
2007	\$74,200	\$34,300	46%
2008	\$75,400	\$43,000	57%
2009	\$77,800	\$50,600	65%
2010	\$78,700	\$46,400	59%
2011	\$79,100	\$43,400	55%
2012	\$80,100	\$48,000	60%
2013	\$79,500	\$50,800	64%

Employee Cost-Sharing REGIONAL MUNICIPALITIES AND UTILITIES

Agency	Employees Contribute to Medical	Amount of Employee Contribution to Medical	Employees Contribute to Pension	Amount of Employee Contribution to Pension
BART	Yes	\$92 monthly 1.3% of salary 6% of premium HMO cap	No	\$0
Alameda County	Yes	10% of premium (HMO)	Yes	7% Misc 17% Safety
Concord	Yes	11% of premium (Kaiser)	Yes	5% – 9%
Contra Costa County	Yes	\$260 – \$798 monthly	Yes	10% Misc 12% Safety
EBMUD	No	\$0	Yes	7%
Fremont	Yes	excess over \$1500/mo cap	Yes	5%
Port of Oakland	No	\$0	Yes	8%



BART Seeks More Cost Sharing

6/18/13 BART press release:

- ▶ BART needs its employees to begin paying the employee share of their pension plan.
- ▶ Employees currently pay nothing, while most everyone else in the industry and government pays at least a portion of the employee share.
- ▶ BART is also asking its employees to share more of the costs of escalating health care premiums.
- ▶ BART employees currently pay \$92 a month while the district pays anywhere between \$700–\$1900 per employee, per month.
- ▶ BART's financial sustainability and ability to purchase more new train cars relies on its employees playing (and paying) a larger role.

Union Safety Demands

- ▶ Additional safety improvements, including bullet-proof glass in station booths and better lighting in tunnels.
 - Workers have risked their lives and been killed because of poor lighting in tunnels.
- ▶ Days before their contract ended, unions filed a lawsuit over BART directors' refusal to bargain in good faith over worker safety.
- ▶ More than 2,400 "serious crimes" at five stations in just the last three years
 - Includes more than 100 physical assaults on BART employees, and more than a 1,000 physical assaults on riders.

Park, Alex. Mon Jul. 1, 2013 *Mother Jones*. *What's Behind the BART Strike? The economy is doing better, but workers claim they're still getting pinched.*

BART Endorses Safety Initiatives

- ▶ Discussions at the table are currently focused on recent employee safety initiatives.
- ▶ BART officials gave a presentation highlighting the various ways they've teamed up with labor partners to provide a safer system and working environment.

Safety is something we are all on the same side of the table on. It is too important of an issue to get dragged into labor negotiations. BART will continue to work with its employees on ways to enhance the safety of our workers and our passengers.

–Grace Crunican, General Manager at BART
during negotiations in October 2013

STRIKE NEGOTIATIONS



Mediators Join Talks

6/19/13:

- ▶ Mediators join BART labor talks as discussions turn to new safety initiatives.
- ▶ Two state mediators– one for each of BART’s two largest unions– SEIU and ATU --join the BART labor bargaining table in an effort to help both sides come to an agreement on a labor contract.
- ▶ BART officials request the assistance of state mediators once it becomes clear both parties remained far apart.

July 2013 Proposals

BART Contract FACTS	Current Proposal from BART (July 2013)	Latest Proposal from Unions (July 2013)	Approved Contract for State Employees (July 2013)
Salary Increase	8% over 4 years	21.5% over 3 years	4.5% over 3 years
Employee Pension Contribution	5% after 4 years	3% after 3 years	8% after 3 years
Employee Healthcare	Currently \$92 per month Increasing to 10% of premium cost	No change	20% of premium cost after 3 years
Safety	<p>Reallocate 18 existing positions for additional late night and early am coverage.</p> <p>Prototype testing underway.</p> <p>June 30, 2013, BART Board approved \$4.8M for tunnel lighting as the first part of a 3 year program.</p> <p>Following TSA 'Best Practices' BART underground restrooms unsafe for passenger.</p>	<p>No Station Agent working alone after 10:00 pm without another Station Agent, or before 6:00 am.</p> <p>Up to 15 new Station Agent positions (at least \$1.8M annually).</p> <p>Station Agent Booths: Bullet Proof Glass (\$40K per booth/56 booths = \$2.24M).</p> <p>Adequate safety lighting throughout system.</p> <p>Open all restrooms in 9 underground stations.</p>	
Work Rules	Requires employees to work 40 hours before collecting overtime.	Workers in unpaid status for one or more days during a week cannot work overtime.	



Pre-Strike Extension

10.11.2013

- ▶ BART and Unions signed extension, preventing strike through the weekend as negotiations continued
- ▶ Unions: If no agreement by Midnight at Sunday, they will strike on Monday.
- ▶ BART press release:

We are grateful the Bay Area will not be impacted by our unions for the next few days and that the trains will be running while we continue to negotiate. BART was prepared to offer a new proposal today but the unions told us they were not ready for it. We will continue negotiations tomorrow at 10am.

BART and ATU/SEIU Proposals

	BART Proposal (August 10, 2013)		ATU/SEIU Proposal (September 16, 2013)	
Contract Term	4 Years		3 Years	
Wages	2.5%	= 10%	8% (4.5%+3.5%*)	= 17%
	2.5%		4.5%	
	2.5%		4.5%	
	2.5%			
Pension (Employee Contribution)	1%		1.39%	
	2%		2.77%	
	3%		4.85%	
	4%		*Pension contribution fully reimbursed in wage proposal above	
Medical	Cap BART's premium payment at cost of Kaiser/Blue Shield family plan (whichever is lower)		Flat Rate 2014 = \$110.01 2015 = \$112.86 2016 = \$115.79	

10/3/13

BART and ATU/SEIU Proposals

NOTE: Numbers are calculated to 4 years for proper comparison

	BART Proposal (October 3, 2013)	ATU/SEIU Proposal (October 3, 2013)
Contract Term	4 Year	4 Year
Wages	2.5% 2.5% 2.5% = 10.25%* 2.75%	3.75% 3.75% 4% = 18.38%* 4% Wage proposal includes 2.88% in pension contribution
Conditional Wage Proposal	For each percent ridership increase above forecasted levels, employees receive a conditional \$500 lump sum bonus (capped at \$1000 each year)	For each .1% ridership increase above forecasted levels, employees receive a .075% increase in wages
Pension (Employee contribution)	1% 2% 3% 4% *Pension contribution fully reimbursed in wage proposal above	1% 2% 3% 4% *Pension contribution fully reimbursed in wage proposal above
Medical	Cap BART's premium payment at cost of Kaiser/Blue Shield family plan (whichever is lower)	Flat Rate 2014 = \$110.01 2015 = \$112.86 2016 = \$115.79 2017 = \$118.82



BART's Latest Proposal

(October 13, 2013)

Contract Term	4 Year
Wages	3% 3% = 12%* 3% 3%
Conditional Wage Proposal	For each percent ridership increase above forecasted levels, employees receive a conditional \$500 lump sum payment (capped at \$1000 each year)
Pension (Employee contribution)	1% 2% 3% 4% *Pension contribution fully reimbursed in wage proposal above
Medical (Employee contribution)	Flat Rate 2014 = \$132.01 2015 = \$135.96 2016 = \$140.04 2017 = \$144.24



The Settlement

Work Rule Improvements

Management Gains More Control

BART Labor Agreement

Improved Work Rules, Past Practices and Safety

Greater Use of Technology	<ul style="list-style-type: none"> • Significantly increased flexibility to utilize new/changed technology and equipment
Improved Attendance	<ul style="list-style-type: none"> • Any unpaid weekly absence not covered by paid sick leave, makes ATU employees ineligible for premium pay for working their regular days off • Other reforms to improve attendance
Scheduling Flexibility	<ul style="list-style-type: none"> • For projects, Management gained the right to schedule jobs as 10 hour/4 day or 8 hour/5 day shifts • Improved holiday staffing
Safety Enhancements	<ul style="list-style-type: none"> • Greater transparency and improved tracking of employee-submitted safety concerns • All Station Agent Booths <ul style="list-style-type: none"> > Dutch doors > Shatterproof protective film on glass > Height markers • Coliseum Station Agent Booth <ul style="list-style-type: none"> > Pilot test of bulletproof glass • Greater voice for workers on safety through formal committees



“Cost-Saving” Work Rule Changes

- ▶ “Beneficial Past Practice” language in contracts prevented BART from upgrading and leveraging technology and new equipment use.
 - Unions will allow improvements to equipment and technology to upgrade and improve how BART runs and maintains the system.
 - BART can now transmit information electronically (!) instead of by fax machine or handwritten notes, enter field data via handheld devices, upgrade equipment, and introduce new or even what would be considered old technology by industry standards to maintain its assets.
- ▶ Management will no longer need union approval to make changes in these areas, something which has tied managements’ hands since 1972.
- ▶ This change will also help BART make the most of technology when new “Fleet of the Future” modern train cars are put into service.

BART Gets Control of Scheduling

- ▶ BART will now have better control over scheduling and attendance, preventing overtime abuse
- ▶ Management gained the right to schedule project jobs as a 5 × 8 shift (work eight hours, five days a week) or a 4X10 shift (work ten hours, four days a week).
 - BART will be able to better manage and meet deadlines for project work, such as rail car floor replacement, with this flexibility.
- ▶ Employees will no longer be allowed to take unpaid leave during their work week and then make overtime by working their days off.
 - By closing this loophole, BART will save on overtime costs by cracking down on the biggest abusers and by encouraging workers to work during their regularly scheduled work week.
- ▶ Unions also agreed to reforms to help encourage good attendance.

New Safety Measures

Workers Prevail on Safety

Safety Concessions

- ▶ BART agreed to add Dutch doors, height markers, and shatter proof protective film on glass in all station agent booths system wide.
- ▶ BART will install bullet proof glass at Coliseum Station.
- ▶ Management will meet and confer with unions to determine any future investments.
- ▶ BART managers will work more closely and continuously with workers through three sub-committees to discuss:
 - Tunnel lighting
 - Vegetation control along BART tracks, and
 - Underground restrooms which are currently closed for security and safety reasons.

“A Fair and Sustainable Economic Package”

Package is big leap for BART in getting employees to share cost of employee benefits.

BART Labor Agreement

Economic Package

Contract Term	4 Year
Wages	3.72% 3.72% 3.72%=15.38% 4.22% (Base Wage Phasing Every 6 Months: 1.86%–1.86%–0.00%–3.72%–0.00%–3.72%–0.00%–4.22%)
Pension (Employee contribution)	1% 2% 3% 4%
Medical (Employee contribution)	Flat Rate* 2014 = \$132.01 (\$37 increase from previous schedule) 2015 = \$134.86 2016 = \$137.79 2017 = \$140.82 *Equivalent 9.2% of premiums
Retiree Medical	15 year vesting (previously 5 years)
Total Cost	\$67M = 2.0% net per year



Economic Changes

- ▶ BART employees will begin to pay into their pension, growing from 1% in the first year to 4% in the last year of the contract.
 - Since employees previously paid nothing towards their pension, this change represents a fundamental shift in employee cost sharing at BART.
- ▶ BART will continue its “State of Good Repair” project efforts to ensure BART can meet future demand while maintaining reliable and safe service.
- ▶ Costs are a “shared responsibility from all Bay Area stakeholders.”
 - Beginning January 1, 2014, riders will pay 5.2% increase/adds 19 cents to the average fare to be dedicated to BART’s top three capital projects: new train cars, a new train control system to run trains closer together, and a state of the art maintenance facility to serve the new fleet.
 - BART will ask the voters for an investment to address our State of Good Repair needs.
 - BART will continue to seek federal and state money to pay for the billions needed.
 - This “all of the above” approach is the only way to ensure BART will continue to be “the transportation back bone and economic engine the Bay Area depends on.”

Employees Pay More for Medical

- ▶ Employees will pay an additional \$37 to the flat rate they currently pay towards medical insurance, which is equivalent to a 9.2% premium contribution, up from 5%.
 - BART employees will pay \$132 a month for health care the first year and the contribution grows to \$144 per month the last year.
- ▶ BART increased the number of years it takes for an employee to be fully vested for retiree medical benefits from 5 years to 15.
 - This change will result in cost savings for years to come and is an important reform to help contain costs.
- ▶ BART increased the amount paid per month to employees who opt out of medical coverage from \$100 to \$350.
 - This is intended to provide a bigger incentive to opt out for those who may have medical benefits offered through a spouse or partner.
- ▶ BART employees will receive a 15.38% pay increase (2% net pay per year) over the course of four years.
 - This size wage increase is in line with what other public sector employees have been given in recent contracts and consistent with a cost of living adjustment for employees to keep up with the high cost of living in the Bay Area.

Prologue: Death of 2 Workers

- ▶ Two workers were fatally injured in BART accident who were struck by an out-of-service BART train on Saturday October 19, 2013
 - The accident occurred between the Walnut Creek and Pleasant Hill stations
- ▶ The workers were performing track inspections in response to a report of a dip in the track at the time of the accident.
- ▶ Both had extensive experience working around moving trains.
 - The procedures involved in track maintenance require one employee to inspect the track and the other to act as a lookout and notify of any oncoming traffic.