

Public-Employee Unions

Are the current attacks justified?

Public-employee unions, which represent somewhat over one-third of the nation's 21 million government workers, have come under pointed attacks in several states. Republican governors in Wisconsin and Ohio won passage of laws to limit the scope of collective bargaining between unions and government agencies. They say the moves are needed to bring workers' pay under control to help ease state and local budget deficits. Union leaders and their Democratic allies say the measures take away workers' rights for the purpose of reducing unions' political influence. The legislative battles have touched off broad debates about whether government workers are over-paid. Most economists say government workers' wages and salaries are generally not out of line, but benefits and pensions are often more generous than those in the private sector. Unfunded pension liabilities are a looming problem for many states, and governors of both parties are calling for changes to trim the costs.



Gov. Scott Walker's plan to restrict collective bargaining for government workers in Wisconsin draws heavy union opposition and a smattering of support during a rally at the state capitol in Madison on March 5. Lawmakers approved the sweeping measure a week later, but it is on hold pending a legal challenge.

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Public-Employee Unions

BY KENNETH JOST

THE ISSUES

Steven Reid worked as a consumer-complaint investigator for the state of Wisconsin for 27 years before retiring with a \$2,000-a-month pension in 2007. He might have earned more in the private sector, but he felt drawn to public service — and to the promise of a good pension at age 55.

As the son and grandson of longtime union members, Reid joined Local 33 of the American Federation of State, County and Municipal Employees (AFSCME) on his first day on the job.

Though he is retired, Reid is proud to be standing by the union that stood by him. In mid-February he began driving on weekends from his home in the village of Eden to the state capital in Madison to join with his union brothers and sisters and others in protesting a crackdown on public-employee unions by Republican Gov. Scott Walker.

Elected in November 2010 in a wave of state-level GOP victories in legislative and gubernatorial balloting, Walker proposed and won hard-fought legislative approval of a bill that virtually eliminates collective bargaining by public-employee unions except police and firefighters. The measure, delayed from taking effect pending a court challenge, also bars payroll deductions for union dues and requires unions to win approval from workers in a certification election every year. (See box, p. 318.)

In introducing the measure Feb. 11, Walker called it a “budget repair bill,” aimed at reducing the state’s \$137 million budget deficit. Nationally, other Re-



Getty Images/Justin Sullivan

Wisconsin Gov. Scott Walker speaks at the state capitol in Madison on March 11 after signing his controversial bill limiting collective bargaining rights of public-employee unions. The bill is one of several proposals being pushed by Republican governors or legislators aimed at curbing public-sector unions.

publican officials and GOP supporters link states’ fiscal woes to what they call overly generous compensation packages for government workers. “Unaffordable and unsustainable salaries, pensions and other benefits for unionized government workers are a substantial part of the problem,” U.S. Chamber of Commerce President Thomas J. Donohue wrote recently.¹

The liberal Center for American Progress counters that state budget deficits are due primarily to lost revenue from the recession. Personnel costs are actually a smaller percentage of state budgets than they were 20 years ago, according to David Madland, director of the American Worker Project with the Center for American Progress

Action Fund. “The evidence strongly suggests that conservative attempts to restrict public-sector union rights and slash government employee compensation are driven by motives other than budget necessity,” Madland writes.² (See chart, p. 319.)

The Wisconsin act does sharply increase state employees’ contributions for health insurance and retirement benefits, amounting to about an 8 percent pay cut. But Reid says the budget issues were a “smoke-screen” for Walker’s real purpose — undermining the state’s Democratic Party by weakening its political ally, public-sector unions.

Public workers are “willing to help with this deficit,” Reid says. But cutting back on union rights, he says, “looks like an opportunity for the Republicans to do real damage to the other party.”

Walker’s bill is only one of several proposals being pushed by Republican governors or legislators aimed at curbing public-

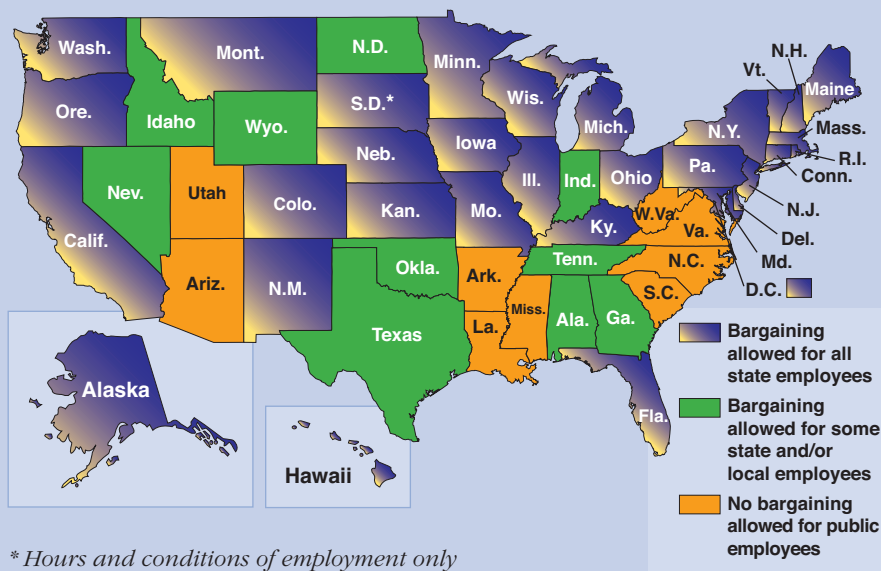
employee unions. In Ohio, newly elected Gov. John Kasich on March 30 won legislative approval of a measure to eliminate collective bargaining over health benefits and some working conditions and to make strikes by public workers illegal, with a stiff penalty. As of late March, a database compiled by the National Conference of State Legislatures showed some 300 bills on public-sector labor issues introduced in 37 states.³

The surge in activity reflects conservatives’ strategy to turn the anti-government feeling and economic angst shared by many Americans into tangible legislative victories against public-employee unions. “There’s a general feeling that’s been whipped up by conservatives, and particularly Republican

Most States Allow Collective Bargaining

Thirty-one states and the District of Columbia allow unions representing state employees to bargain with the state over their members' wages, hours and conditions of employment. An additional 10 states allow bargaining for some state and/or local employees. Nine states do not allow public workers to bargain collectively.

Collective Bargaining by Public-Sector Unions, 2010



Source: "Public Sector Collective Bargaining Laws," American Federation of State, County and Municipal Employees, www.afscme.org/members/11075.cfm.

governors, that public employees are privileged," says Richard Kearney, a professor at North Carolina State University's School of International and Public Affairs in Raleigh and author of a leading text on public-sector unions.⁴

The stakes for the nation's 7.6 million unionized public workers, ranging from sanitation workers and teachers to state university professors and federal-government scientists — are high. The stakes for the labor movement as a whole are also high. With the percentage of unionized workers in the private sector in sharp decline, public workers now comprise roughly half of union members in the country. But the percentage of unionized public workers — roughly 40 percent today — has remained relatively flat for decades.⁵ (See *bar graph*, p. 317.)

Opponents say Walker's bill, with its curbs on collective bargaining and other restrictions, is effectively aimed at busting the public unions. "Sure," says Steve Kreisberg, national collective bargaining director for AFSCME (commonly pronounced as "AF-SMEE"). "I think they've stated as much."

With the stakes so high, Walker's proposal provoked a fierce, nationally televised battle waged by labor unions proud of Wisconsin's role in pioneering public-employee rights and by Democratic lawmakers resentful of their relegation to minority status following last November's elections. The weekend after Walker unveiled the proposal, Reid was one of an estimated 150 people who converged on Madison to protest the bill. Police estimated the crowd at 85,000 on March 13 fol-

lowing the bill's enactment. Pro-Walker supporters appear to have numbered in the hundreds, at most.⁶

The legislature's approval of the bill came only after outnumbered Democratic senators staged a three-week boycott. The so-called "Gang of 14" decamped across the Illinois border to deny the Republican-controlled Senate the 20-member quorum needed to pass a budget-related bill. With a 19-vote majority in the 33-seat chamber, Republicans needed at least one Democrat in attendance to approve the bill as introduced with a number of budget-related provisions.

But with Walker's approval, Republicans circumvented the Democrats' boycott by stripping out the budget provisions on March 9, with only minimal public notice. Senate Majority Leader Scott Fitzgerald sent the bill without Senate passage to a joint Assembly-Senate conference committee, which removed the budget provisions and then returned the measure to the Senate for approval minutes later. The lone Democrat present, Assembly Minority Leader Peter Barca, complained that the conference committee met with less than the 24-hour notice required under the state's open-meetings law.⁷

The Senate's approval of the bill on an 18-1 vote — with one Republican voting against it — set the stage for the Assembly to follow suit the next day and Walker to sign it on March 11. But Democratic officials in Dane County (Madison) filed suit the same day to block the law. County Executive Kathleen Falk and county board Chairman Scott McDonnell argued the law should be voided because the conference-committee session failed to comply with the open-meetings law. Judge Maryann Sumi issued a temporary restraining order on March 18 blocking the law from going into effect pending further proceedings, now due to resume in May.

With the Wisconsin law still in court, labor unions and their supporters continued to argue with critics and opponents

about the issues. To unions, the limits on collective bargaining eliminate rights won slowly over the last 60 years, the same rights enjoyed by private-sector workers and protected by international worker-rights guarantees. The unions' adversaries insist that the analogy to private-sector workers is inapt and that in practice public-employee unions have exploited collective bargaining rights — and their political clout — to win overly generous compensation packages.

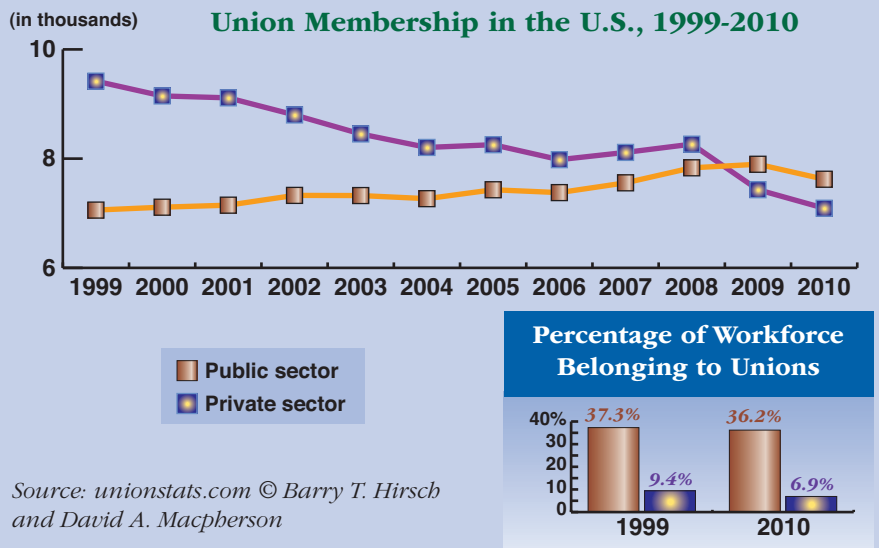
The opposing sides differ as well on whether public employees are generally overpaid or underpaid. In general, economists appear to agree that most state and local government workers lag behind private-sector counterparts with comparable education in terms of wages or salaries, but enjoy somewhat better health and retirement benefits. Using different methodologies, experts from different ideological positions come to differing conclusions on how to compare the overall compensation.

The opposing sides differ as well on responsibility for the shortfalls in public-employee pension funds that loom for many states — red and blue alike. “There is a pension tsunami coming down the pike,” says Daniel DiSalvo, a professor of political science at City College of New York who follows public-sector labor issues. Walker epitomizes the critics' view that public employees have won overly generous health and retirement benefits with far lower contributions than private-sector workers have to pay for their benefits. Unions say the shortfall results from the recession's impact on pension funds and inadequate funding by some states in recent years. (See sidebar, p. 324.)

In Wisconsin, Walker appeared to have enjoyed public support at the start of the fight, but polls indicate gains by the unions in the weeks since. (See graph, p. 327.) The debate “has raised people's attention to the role that unions play in society,” says William Jones, an associate professor of history at the

Public-Sector Unions Hold Steady

Membership in public-employee unions grew slightly over the past decade while private-sector unions declined by about a fourth (top). The proportion of public employees belonging to a union changed little during that period, while the percentage of unionized private-sector employees fell sharply (bottom).



University of Wisconsin in Madison who is writing a history of AFSCME.

Retired complaint investigator Reid is fully aware of the sharp divisions over the issues. In the cluster of six houses where he lives, three families are Democrats and three are Republicans — and they are not talking to each other these days.

Here are some of the arguments being heard on the major issues in the debate:

Should public employees have the right to collective bargaining over pay, benefits and pensions?

Indiana Gov. Mitch Daniels marked his first full day in office on Jan. 11, 2005, by rescinding collective bargaining rights for the state's 25,000 employees. The Republican governor's move reversed a policy that three Democratic predecessors had followed under executive orders for the previous 15 years.

Daniels depicted the action then as needed to restructure the state's child-

welfare bureau. Six years later, the potential GOP presidential contender sees a broader purpose in curbing public-sector unions. “Public jobs grew while private jobs were lost, public salaries went up while private sector salaries are shrinking,” Daniels told a Republican fundraiser in Cincinnati Feb. 23, referring to the era since widespread recognition of collective bargaining for public-employee unions. “It's time to interrupt that loop in the public interest,” Daniels said.⁸

Daniels' comments came as his fellow Republican governors in Wisconsin and Ohio were urging GOP-controlled legislatures to approve new restrictions on public-employee unions in their states. In those states, as in Indiana earlier, unions and their allies say the moves eliminate important worker rights, while supporters say restrictions on unions are needed to cut costs and make government more efficient.

“Public employees should have the same bargaining rights as every other

Key Provisions of Wisconsin's New Bill

Wisconsin Gov. Scott Walker requested and won legislative approval of a broad overhaul of state and municipal employees' collective bargaining rights and provisions governing public-employee unions. Walker signed the bill March 11, but a state court judge has blocked it from going into effect pending a ruling on a lawsuit alleging that the state Senate failed to comply with the state's open-meeting law two days earlier before voting on the measure.

Here are the major provisions:

- Restricts collective bargaining for state and municipal employees except police and firefighters to "base wages." No collective bargaining for health benefits or pensions.
- Limits increase in base wages to the percentage change in Consumer Price Index.
- Increases employee contribution for health benefits. Family coverage under lowest tier would increase to \$208 per month from \$78.
- Requires employees to contribute 5.8 percent of pay to retirement system. Currently, most employees pay 0.2 percent.
- Mandates study due by June 30, 2012, on offering employees option of a "defined-contribution" 401(k)-type retirement plan.
- Requires annual certification election for union to represent designated workers. Union would be decertified unless it receives at least 51 percent of *all* workers in collective bargaining unit, not just those voting. Initial certification elections were to have been held April 1; the date is now uncertain because of the legal challenge to the act.
- Limits collective bargaining agreements to one year, not two years as under current law. Collective bargaining agreements cannot be extended.
- Prohibits payroll deductions for union dues except for public-safety employees.
- Provides for employee to be discharged for participating in a strike or other "concerted" work actions, including sit-downs, slowdowns or mass sick calls.

Source: Wisconsin State Legislature, <http://legis.wisconsin.gov/2011/data/acts/11Act10.pdf>.

employee in society," says AFSCME collective bargaining director Kreisberg. "If they want to work together in the bargaining process, they should have the same right as any other worker in America."

"I don't believe they're rights," counters Matt Seaholm, director of the Wisconsin chapter of Americans for Prosperity, a low-tax advocacy group that has supported Walker's legislation. "It's a privilege for public-sector unions to have collective bargaining

ability with government and, frankly, with the taxpayers. That privilege has been abused."

In the past, union rights for public employees were seen by opponents as an infringement of government sovereignty. That argument is rarely heard today. Instead, critics of public-employee unions argue that the unions' combined economic and political clout results in overly favorable deals for public workers when bargaining with government officials and managers.

"The trouble with collective bargaining for public employees is there's no one with skin in the game on the other side of the table," says Chris Chocola, a former two-term Republican congressman from Indiana and now president of the Club for Growth, another low-tax advocacy group. "The people agreeing on one side bear no consequence."

Collective bargaining for public employees "results in pay that you could not get in an arms-length negotiation," says Stephen Bainbridge, a professor at UCLA Law School and a former senior fellow at the Heritage Foundation, a conservative think tank in Washington. "It gets you the kind of gross pension benefits that you see around the country."

Pro-labor experts scoff at the picture of unions overpowering complacent government officials and managers. "Tired arguments," says North Carolina State's Kearney. "There are constraints on public employees," he continues. "When the public perception is that the unions have been too successful and have generated wages, benefits and working conditions that are out of step with those in the private sector, then there can be a reaction."

"The problem is not that the unions exist," says Henry Farber, a professor of economics in the industrial relations section at Princeton University in Princeton, N.J. "The problem is inadequate discipline on the government's side. The solution is not to kill the union."

Kreisberg similarly rejects the argument that government managers are more willing to grant union demands than private companies. "It's easier to make a profit than to raise a tax," he says. He also notes that in many states pensions are set by legislatures, not through collective bargaining. "That's the biggest myth out there right now," he says. "That unions have somehow negotiated fat pensions."

Defending the Wisconsin legislation, Seaholm initially says that it leaves bargaining over wages "intact" and only

eliminates negotiations over pensions and benefits. Under questioning, however, he acknowledges that the bill allows bargaining over wages only for raises up to the cost-of-living increase. With that provision, the bill “basically abolishes collective bargaining,” Kreisberg retorts. “Let’s not mince words.”

Walker and other critics are tapping into a sentiment widely shared by the public at large — that public-employee unions have gotten the upper hand. “In some states, the relationship [between state government and public-employee unions] is slightly out of whack,” says DiSalvo of the City College of New York. To correct the imbalance, DiSalvo favors either restricting collective bargaining rights or limiting unions’ political influence. “If one could restrict one or the other, it could bring things back into equilibrium,” he says.

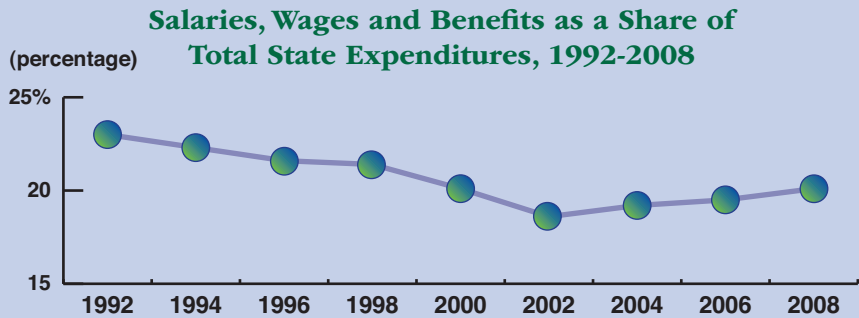
But Thomas Kochan, a professor of management and director of the Institute for Work and Employment Research at the Massachusetts Institute of Technology’s Sloan School of Management in Cambridge, says restricting collective bargaining is not the solution. “The beauty of collective bargaining is standards,” he says. “That doesn’t eliminate politics, but there are standards. To go back to the law of the jungle and pure politics is very, very shortsighted.”

Are public employees, in general, overpaid, underpaid or fairly paid?

With the Wisconsin collective bargaining bill stalled, *USA Today* stepped into the debate on March 1 with a front-page story listing the state as one of 41 where public workers “earn more” than private-sector employees. Quoting figures from the Commerce Department’s Bureau of Economic Analysis (BEA), the newspaper said that state and local government workers in Wisconsin earn \$50,774 per year on average, about \$1,800 more than the average for private-sector workers.

State Employees Get Smaller Slice of Pie

The portion of state expenditures devoted to pay and benefits for state employees was lower in 2008 than in 1992, but on the rise.



Source: David Madland and Nick Bunker, “State Budget Deficits Are Not an Employee Compensation Problem,” Center for American Progress Action Fund, March 2011, www.americanprogressaction.org/issues/2011/03/pdf/statebudgetissuebrief.pdf.

The Commerce Department data were also said to show that public employees’ compensation has grown faster than the earnings of private workers since 2000, primarily because of the rising value of benefits. Only in the seventh paragraph, however, did the story note that the earnings comparisons “did not adjust for specific jobs, age, education or experience.”

Unions sharply criticized the story, but so did many economists and media watchers. Within the story, Jeffrey Keefe, an associate professor of economics at Rutgers University in New Brunswick, N.J., called the analysis misleading because it did not reflect factors such as education “that result in higher pay for public employees.” In a critique later that day, the progressive media-monitoring group Fairness and Accuracy in Reporting (FAIR) made the same point, calling the comparison “entirely meaningless.”⁹

As the episode illustrates, comparisons between public- and private-sector compensation are both statistically complex and emotionally charged. When *The New York Times* tried to answer the question of which side earns more, it presented a package of charts that began with the BEA comparison but

continued with other data showing government workers more likely to be white-collar and better-educated than private-sector workers as a whole.¹⁰

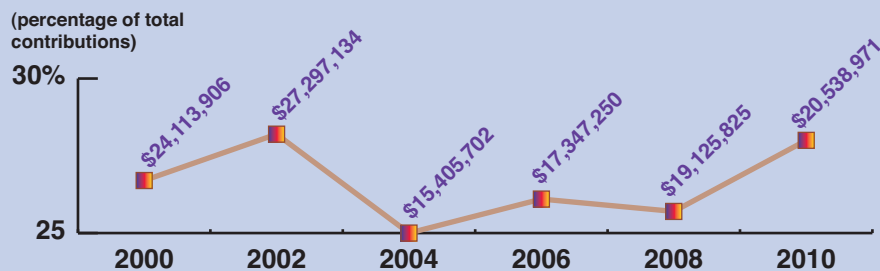
A wide range of economists agree that the widespread public perception of government workers as overpaid is inaccurate. “I don’t think public employees are overpaid,” says Princeton’s Farber. Pay levels are “fairly comparable,” he says, “a bit higher for low-skilled workers, lower for high-skilled workers.” Along with others, however, Farber also points out that public employees generally have better health and pension benefits than private-sector workers.

Economists trying to take account of all factors still come to differing conclusions. Keefe has written a series of papers, published by the liberal Economic Policy Institute in Washington, that conclude state employees are generally undercompensated in relation to private-sector workers nationally and in Wisconsin and several other states. In Wisconsin, for example, Keefe found that state workers have a 5 percent gap in total compensation compared to private-sector workers. Conservative economists Andrew Biggs of the American Enter-

Public-Employee Unions Are Major Donors

Unions representing police, firefighters and other government employees contribute about one-fourth of the donations to federal election campaigns. Yearly amounts have ranged from \$15 million to \$27 million over the past decade.

Public-Sector Union Contributions to Federal Election Campaigns, 2000-2010



Source: "Public Sector Unions," OpenSecrets.org, www.opensecrets.org/industries/indus.php?cycle=2010&ind=P04#contribtrends.

prise Institute (AEI) and Jason Richwine of the Heritage Foundation find instead that Wisconsin government workers have a 10 percent pay premium over private-sector employees.¹¹

The dueling studies agree generally in finding private-sector workers better paid except for less-skilled blue-collar workers and public-sector workers with better pension benefits. But Biggs argues that Keefe underestimates pensions' value by calculating their worth not on the basis of the ultimate benefit but the state's current contribution. Because state pension funds generally perform well, the current contribution understates the eventual value of the retirement benefit to the employee, he says.

In their study, Biggs and Richwine also credit state workers with additional compensation — a 15 percent pay premium — in the form of greater job security than private-sector workers. "Job security pulls them ahead," Biggs says. But Keefe says Biggs and Richwine offer no justification for any job-security premium, "much less 15 percent."

Similar arguments over federal workers' compensation were aired in a

March 9 hearing by the House Oversight Subcommittee on Federal Workforce, U.S. Postal Service, and Labor Policy. Subcommittee chairman Dennis Ross, a Florida Republican, opened by calling federal workers' pay "not in line" with the private sector. But John Berry, director of the Office of Personnel Management (OPM), rejected what he called "the myth" that federal workers as a whole are overcompensated.

At the hearing, Biggs and Heritage Foundation senior policy analyst James Sherk presented studies showing a substantial 30 percent to 40 percent premium for federal workers over private-sector counterparts even after adjusting for factors such as education and experience. But Colleen Kelly, president of the National Treasury Employees Union, noted that under both Republican and Democratic administrations, the President's Pay Agent has concluded that federal workers have a pay gap of about 20 percent compared to private employees.*¹²

* The President's Pay Agent is composed of the secretary of Labor and the directors of OPM and the Office of Management and Budget.

In Wisconsin, Walker and his supporters focused on the benefits issue. A television ad paid for by the Wisconsin Club for Growth, an economically conservative advocacy group unaffiliated with the national organization of the same name, commended Walker for fighting to make public workers "pay their fair share."¹³

Walker's legislation requires government workers to pay half of the contribution toward retirement benefits — 5.8 percent of their paychecks, up from 0.2 percent — and 12.6 percent of the cost of health insurance. AFSCME leaders in Wisconsin and Washington have said throughout the controversy that they were willing to negotiate increased contributions. "While we're certainly going to share in the sacrifices," Martin Beil, executive director of Wisconsin's AFSCME Council 24, said in a video message Feb. 26, "we will not under any circumstances surrender our right to collectively bargain or organize as a union."¹⁴

Do public-employee unions wield undue political influence?

Public-sector unions are big players in federal and state campaigns, and they play overwhelmingly for Democrats. So Wisconsin party leaders on both sides of the aisle see high political stakes in the debate over Gov. Walker's union legislation.

"I consider organized labor to be the backbone of the Democratic Party," Mike Tate, state party chairman, told the *Wisconsin State Journal* as the union bill was pending in early March. "Part of Scott Walker's strategy is to weaken the infrastructure of the Democratic Party."

Senate Majority Leader Fitzgerald appeared to confirm Tate's accusation a few days later as he finally maneuvered the bill through the chamber. "If we win this battle, and the money is not there under the auspices of the unions," Fitzgerald told Fox News on March 9, "certainly what you're going to find is President Obama is going to have a . . .

much more difficult time getting elected and winning the state of Wisconsin.”¹⁵

Over the past 10 years, AFSCME’s political action committee ranks 13th among PACs in giving to federal candidates, with \$9.4 million in total contributions, according to the Center for Responsive Politics, a Washington group that monitors campaign finance. All but a tiny fraction of the donations — 97 percent — went to Democrats. In Wisconsin, too, public-employee unions give predominantly to Democratic office-seekers — about 73 cents of every dollar given, according to an analysis by the Wisconsin Democracy Campaign prepared for the *State Journal*.¹⁶

Critics of public-employee unions see the campaign giving as part of a system that uses money and votes to get government officials to do their bidding, both at the bargaining table and in the policy arena. They blame teachers’ unions, for example, nationally for bottling up school reforms that threaten educators’ job security.

“When you combine the realities of campaign finance with collective bargaining in the public sector, you end up with a situation in which you have very powerful, very wealthy unions, such as the teachers’ union, financing political campaigns of the



Getty Images/Mike Munden

Firefighter and union supporter Tom Ullo registers his opposition to SB 5, a bill limiting collective bargaining rights for government workers in Ohio, during Gov. John Kasich’s State of the State address in Columbus on March 8. Kasich signed the bill three weeks later, but it is on hold pending a possible referendum on the measure. The bill is one of several proposals being pushed by Republican governors or legislators aimed at curbing public-employee unions.

people who are running for political office,” says UCLA’s Bainbridge. In states with a Democratic majority, he says, “you’ve got the unions and their lackeys on either side of the bargaining table.”

Union officials and their supporters insist the picture of influence-peddling is overdrawn. “Where’s the evidence that that occurs?” asks AFSCME’s Kreisberg. “Where’s the evidence that [unions’ influence] is corrosive?”

Labor unions are “a bulwark in favor of democracy,” Kreisberg continues. “They’re part of the democratic institu-

tions of our government. We extol trade unions everywhere else in the world except when they are in the United States.”

By reducing public-employee unions’ collective bargaining role, Walker’s legislation threatens to reduce their membership. In the six years since Daniels’ move in Indiana to rescind collective bargaining with state employees, dues-paying union members dropped from 16,408 in 2005 — about two-thirds of the state’s public-employee workforce — to 1,409, according to the *Wisconsin State Journal*.¹⁷

Two distinctive provisions in Walker’s bill go further toward undermining unions by eliminating payroll deductions for union dues and requiring unions to face certification elections every year. Walker argued that getting rid of the dues check-off would help offset workers’ increased costs for health and retirement benefits.

He said annual certification elections will force unions to prove their value to workers.

Labor-oriented experts are sharply critical of the elections provision. “It’s totally outside of the mainstream of collective bargaining statutes in the United States or Canada,” says Martin Malin, a professor of law and director of the Institute for Law and the Workplace at Chicago-Kent College of Law, Illinois Institute of Technology.

“It’s simply nutty,” says MIT’s Kochan. “You’re going to have a perpetual election process.”

Even critics of public-sector unions view the provision as punitive. “Clearly, an election costs money and takes up time,” says DiSalvo of City College of New York. “That is money and time that from the union’s point of view could be dedicated to expressing its interest.” Together, he says, the election and dues check-off provisions amount to “a huge one-two punch” against unions.

While supportive of unions, Princeton’s Farber says he would like to limit their political clout. “They really shouldn’t be contributing to the people they’re negotiating with,” Farber says. “The management should not be beholden to the union.” He concedes, however, that U.S. Supreme Court rulings on campaign finance, including a January 2010 decision guaranteeing unions and corporations the right to spend freely in election

campaigns, make it impossible to keep public-sector unions out of political contests.¹⁸

In Wisconsin, Walker’s push for the union bill provoked a fight vigorously waged on the streets, in print and on radio and TV. Bainbridge says the outcome bodes well for other anti-union proposals. “If you have the stomach to wage this fight, it is a fight that Republicans can win,” he says. But Kreisberg thinks unions can regain footing if they shift the terms of the debate. “It’s really easy to beat up on teacher unions or employee unions,” he says. “But when you ask people how they feel about teachers or firefighters, [approval ratings are] much higher.” ■

BACKGROUND

Forging Solidarity

Public employees in the United States have organized to promote their interests since the 1800s, often in the



AFL-CIO President Richard Trumka rallies union members and community activists at New Jersey’s capitol in Trenton on Feb. 25 to support opponents of Wisconsin legislation restricting collective bargaining. Trumka also blasted cuts in benefits for New Jersey government workers proposed by Republican Gov. Chris Christie.

Bloomberg/Getty Images/Emile Wamsteker

face of resistance from local supervisors and government officials. Civil service reforms in the late 19th century gave some workers protections from politically motivated hiring and firing. Only in the 20th century, however, did public-employee unions win the right to advocate on the full range of workplace issues. The mid-20th century saw cities and then states recognize collective bargaining rights for public employees; the federal government partially followed suit in 1962 by recognizing federal-employee unions. But the advance of public-employee unions halted in the mid-1970s with the failure of a federal bill to guarantee collective bargaining rights for government workers at all levels.¹⁹

Federal shipyard workers organized as early as the early 1800s and achieved their first notable success with a strike at the naval shipyard in Washington, D.C., in 1836 that prompted President Andrew Jackson to grant their demand for a 10-hour day. The New York Letter Carriers formed in 1863 and, with help from the Knights of Labor, became a national organization by 1890. At the

local level, teachers organized into the National Education Association in 1870, initially as a mutual-aid society and later as a quasi-union seeking to ease various regulations and restrictions on educators. Police and firefighters similarly organized mutual-aid societies in the late 1800s that later evolved into modern unions.

Civil-service laws passed by Congress and many states in the late 19th century reduced some abuses of political patronage in the hiring and firing of public employees. But the National Association of Letter Carriers’ increasing activism prompted Postmaster General William Wilson in 1895 to forbid postal employees from lobbying in Washington. President Theodore Roosevelt in 1902 expanded the “gag rule” to all federal employees. The postal workers responded with a public campaign supported by the American Federation of Labor that won congressional approval in 1912 of the Lloyd-LaFollette Act, guaranteeing federal employees’ right to lobby the government. The act laid the groundwork for formation of other federal-employee unions, including the National Federation of Federal Employees in 1917 and the American Federation of Government Employees in 1932.

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Chronology

Before 1950

Government workers organize, but have limited rights.

1912

Lloyd-LaFollette Act guarantees federal workers' right to lobby government.

1919

Boston police strike incites anti-union sentiment in public.

1935, 1937

President Franklin D. Roosevelt signs National Labor Relations Act, guaranteeing union rights to private sector (1935); in later letter, says collective bargaining — “as usually understood” — “cannot be transplanted” into public service (1937).

Late 1940s

Government employment begins to grow after World War II.

1950s-1976

Government workers gain collective bargaining rights.

Early 1950s

About 10 percent of public employees belong to unions.

1958

New York City's “Little Wagner Act” grants collective bargaining rights to public-employee unions.

1959

Wisconsin is first state to pass collective bargaining law for government workers.

1962

President John F. Kennedy signs executive order guaranteeing federal workers' right to unionize and collectively bargain, but not over pay.

1971

Postal workers are granted right to bargain over pay.

1976

Federal bill to grant collective bargaining rights to all state and local government workers fails in Congress.

1977-2000

Public-sector unions make some gains, suffer some setbacks.

1977

Unionization rate for government employees is around 40 percent.

1978

Civil Service Reform Act codifies federal workers' right to unionize.

1980

Most states allow collective bargaining for government workers.

1981

Air traffic controllers strike; President Ronald Reagan fires controllers, decertifies union.

1993

President Bill Clinton expands bargaining rights for federal workers.

2000

Unionization rate for government workers holds at around 37 percent.

2001-Present

Public-employee unions take hits from Republican administrations in Washington, several states.

2001

President George W. Bush rescinds Clinton order on bargaining.

2002

At Bush's insistence, Department of Homeland Security (DHS) is created with president given authority to waive collective bargaining rights.

2003, 2005

Governors in three states rescind collective bargaining: Kentucky (2003); Indiana, Missouri (2005).

2006

Federal appeals court in Washington says Bush administration went too far in curbing collective bargaining with DHS employees.

2007

Missouri Supreme Court rules state constitution guarantees bargaining rights for state workers.

2009

Democrat Barack Obama elected president; federal employee unions expect favorable climate.

2010

Republican New Jersey Gov. Chris Christie wins passage of laws to require teachers to contribute to health insurance (March), limit police, firefighter raises (December). . . . Republicans gain majority in House of Representatives; win majority of governorships, state legislatures (Nov. 2). . . . In new economic and political climate, Obama announces two-year pay freeze for civilian federal workers as budget-cutting step (Nov. 29).

2011

Republican Govs. Scott Walker in Wisconsin and John Kasich in Ohio win passage of omnibus bills to curb collective bargaining for state and local workers (March 11, 30); Wisconsin law blocked by legal challenge; opponents eye referendum on Ohio law.

Pension Woes Blamed on Wall Street Crash, Not Unions

“It’s a little perverse to be looking to unions as the main scapegoat.”

Public-employee unions are being blamed for underfunded pension plans for state and local government workers. But two Washington research centers lay most of the blame on losses in the stock market and cuts in contributions by state and local governments.

The nonpartisan Pew Center on the States warned in February 2010 that states faced a cumulative \$1 trillion gap in covering pensions and health benefits for state and local workers: \$452 billion in unfunded liabilities for pensions and \$587 billion for health benefits, as of December 2008. The Washington-based center warned that the gap would grow unless states brought down costs or “set aside enough money” to pay for benefits.¹

In a more recent report, the liberal-leaning Center for Economic Policy and Research (CEPR) concluded that most of what it calculated as \$647 billion in unfunded pension liabilities stemmed from the two-year stock market plunge from 2007 to 2009. The Washington-based center listed a second major cause as reduced contributions by states during the downturn.²

Unions play only a minor role in both reports. The Pew Center report notes that unions have resisted moves to increase contributions or reduce future benefits in some states, but it found “a greater willingness” to accept changes than in the past. The CEPR report, written by co-director Dean Baker, does not mention unions. In an interview, he says unions “haven’t played much of a role.”

“The economy went off the cliff,” Baker says. “That wasn’t the unions. That was bad management of the financial system, bad regulatory management. That wasn’t school teachers and firefighters. It’s a little perverse to be looking to unions as the main scapegoat.”

Jack Dean, a conservative pension-reform advocate who publishes the website pensionsunami.com, does cite the unions’

stance as a factor in causing pension funding problems, but he says state and local governments share the blame.

“The unions have gotten us into this situation, but that’s what they’re designed to do,” says Dean, a former journalist who began monitoring public pensions in 2004 and is now affiliated with the conservative California Public Policy Center in Santa Monica. “We can’t fault them for doing what they were set up to do. We need to watch them more closely and prevent them from driving us into bankruptcy.”³

Both the Pew and CEPR reports show wide variations among the states’ pension funds. California, the nation’s most populous state, has the biggest pension shortfall or “overhang” — \$75 billion, according to the CEPR report. Illinois, with \$65 billion, and New Jersey, with \$43 billion, rank second and third.

Surprisingly, perhaps, the state where public unions are under severest attack — Wisconsin — gets high marks in both reports. Pew cites Wisconsin as one of four states — along with Florida, New York and Washington — with fully funded pension plans. The CEPR report shows Wisconsin with a minimal \$193 million in unfunded pension liabilities. “Wisconsin looks pretty good in the scheme of things,” says Baker.

Public workers — federal, state and local — generally enjoy better pension benefits than private-sector workers as a whole, experts agree. Union leaders say the benefits often amount to deferred compensation in exchange for forgoing current wage or salary increases. Critics say government officials agree to boost pension benefits because they satisfy unions while pushing the fiscal impact of the increases into the future.

Contrary to the picture drawn by critics, however, a pension expert has found limited correlation between union strength and pension levels. In research to be published in the *Journal of Pension Economics and Finance*, economist Sylvester Schieber found,

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Public-sector unionism suffered a decades-long setback, however, with the public backlash against the Boston police strike of 1919. After calling out the Massachusetts National Guard, Gov. Calvin Coolidge, later U.S. president, famously declared, “There is no right to strike against the public safety” — a view reflected in the widespread bans on public-employee strikes today. By the 1930s, public-employee organizing picked up, as exemplified by the founding of the Wisconsin State Employees Association in 1932, predecessor of present-day AF-

SCME. But the University of Wisconsin’s Jones notes that AFSCME did not initially list collective bargaining as one of its goals. At the federal level, President Franklin D. Roosevelt supported public workers’ right to organize, but, in a letter widely quoted by public-employee union critics today, said that collective bargaining — “as usually understood” — “cannot be transplanted into the public service.” He also opposed “militant tactics,” including strikes.²⁰

Public unions gained solid footing after World War II with the growth of state and local public employment and

the gradual recognition of collective bargaining rights by local and state governments. In 1958, New York City’s Democratic mayor, Robert F. Wagner Jr. — whose father, as a U.S. senator, sponsored the private-sector National Labor Relations Act — granted collective bargaining rights to city workers. A year later, Wisconsin’s Democratic governor, Gaylord Nelson, later a U.S. senator, won enactment of the first statewide collective bargaining law.

President John F. Kennedy continued the favorable trend for public workers in 1962 by signing an executive

for example, that Colorado has the most generous pension benefits even though it has a relatively low 25 percent unionization rate among public workers.

Several states with high unionization rates do have relatively high pension benefits, including, in descending order, New York, Ohio, New Jersey, California and Wisconsin. But Georgia, with a low unionization rate of 15 percent, ranked third-highest in pension benefits. “I was surprised by the result,” Schieber told *The New York Times*.⁴

Both Baker and Pew Center research director Kil Huh say states should be moving toward fully funded pensions through some combination of steps, beginning with keeping up their own contributions. Baker says that state and local payments to pension funds have averaged \$6.9 billion less than withdrawals for the past three years.

Huh says states were already considering or adopting such reforms as reducing benefits, changing the retirement age and requiring employee contributions. Nineteen states adopted such changes in 2010, he says, in some instances with union support.

As one example, Ken Brynien, president of New York’s Public Employees Federation, notes that public-sector unions worked with Democratic Gov. David Paterson on a package of changes in 2009. New employees are now required to contribute 3 percent of their paychecks to their pension throughout their period of service. In



Conservative pension-reform advocate Jack Dean blames both unions and state and local governments for pension problems.

addition, the retirement age was increased from 55 to 62, the minimum years of service for pension vesting from five years to 10 and the use of overtime capped in calculating benefits.

Pension-reformer Dean gives the unions only grudging credit. “They’ve gone along with some of the changes, and that’s because they’ve seen the handwriting on the wall. The problem is that the changes being made are in most cases tweaks.”

But Baker says the pension shortfalls are generally “manageable,” especially if the stock market avoids another reversal. “You do have states that have serious situations,” he says, “but those are the exceptions.”

— **Kenneth Jost**

¹ Pew Center on the States, “The Trillion-Dollar Gap,” February 2010, http://downloads.pewcenteronthestates.org/The_Trillion_Dollar_Gap_final.pdf.

² Dean Baker, “The Origins and Severity of the Public Pension Crisis,” Center for Economic and Policy Research, February 2011, www.cepr.net/documents/publications/pensions-2011-02.pdf.

³ “PensionTsunami: A Project of the California Public Policy Center,” www.pensionsunami.com/. The site focuses on California but includes extensive reports and commentary on pension issues in other states as well.

⁴ Mary Williams Walsh, “The Burden of Pensions on States,” *The New York Times*, March 11, 2011, p. B1. Schieber ranked pension benefits by the “replacement rate” — that is, the percentage of a worker’s income replaced by the benefit. Colorado’s pensions replaced 90 percent of a retiree’s income; Wisconsin’s, 57 percent.

order that explicitly guaranteed federal workers’ right to organize and bargain collectively, though not over pay. Dissatisfied with some of its restrictions, unions won favorable changes later in revised executive orders issued by two Republican presidents: Richard M. Nixon (1969, 1971) and Gerald R. Ford (1975). Meanwhile, the National Association of Letter Carriers had won the right to bargain collectively over pay as an implicit payback for settling the 1970 postal strike and supporting the reorganization of the Postal Service as an independent government corporation.

Public employees were making gains in pay and benefits, and public unions were growing. By the mid-1970s, nearly one-third of public-sector workers were unionized, compared to about 10 percent in the 1950s.²¹ But unions’ militancy — notably, the increasing number of strikes in the 1960s and early ’70s — was also engendering a backlash. Then in 1976, unions suffered a crushing disappointment at the federal level with the failure of legislation to guarantee union and collective bargaining rights to state and local workers nationwide. Oddly, the bill failed not be-

cause of lack of support in Congress, according to Georgetown University historian Joseph McCartin, but because of a Supreme Court decision casting doubt on its constitutionality. McCartin says the bill’s death “marked the turning point of the once expansive public-sector labor movement.”²²

Holding Ground

Public-sector unionism held its own during the final decades of the 20th century even as private-sector unions

Federal Pay Freeze Sparks Partisan Bickering

Obama cites budget savings, but GOP says plan includes costly pay raises.

Facing tough budget negotiations with the new Republican-controlled Congress, President Obama found a quick way in November to cut federal spending: a two-year pay freeze for civilian federal workers. Federal-employee unions complained, while Republicans begrudgingly gave the move tepid support.

Three months later, however, Republican lawmakers are complaining the “freeze” still allows federal workers to get “step increases” — graduated pay hikes within each of the 15 defined civil service grades — that they estimate will cost \$1 billion for the current fiscal year.¹

In announcing the move on Nov. 29, Obama tried to cushion the blow by praising federal workers, but said the times required “all of us . . . to make some sacrifices.” He said it would save \$2 billion a year.

Federal union leaders sharply criticized the move. “Very disappointed,” Colleen Kelly, president of the National Treasury Employees Union, told *The Washington Post*. John Gage, president of the American Federation of Government Employees, called the move a “public relations gesture” that would amount to “peanuts” in savings. “The American people didn’t vote to stick it to a VA nursing assistant making \$28,000 a year or a border patrol agent earning \$34,000 per year,” Gage added.

Rep. Jason Chaffetz, a Utah Republican who was then ex-

pected to head the House Oversight Subcommittee on Federal Workforce, U.S. Postal Service, and Labor Policy, called the move “a good start.” (The post eventually went to Florida’s Dennis Ross.) But in a subcommittee hearing three months later, House Oversight and Reform Committee Chairman Darrell Issa, a California Republican, sharply challenged Office of Personnel Management Director John Berry on Obama’s move.

“There is no freeze because of the step increases,” Issa said. “The truth is there will be pay raises.”

Berry said he would oppose barring step increases for federal workers because that would cause some workers to leave the government for private-sector jobs. Under friendly questioning later from Democrat Danny Davis of Illinois, Berry said federal workers deserved credit for forgoing pay raises. “They were the first ones who were asked to step up to the plate and make a sacrifice,” he said.

— *Kenneth Jost*

¹ Coverage drawn in part from Seth McLaughlin, “GOP pushes total pay freeze,” *The Washington Times*, March 10, 2011, p. A4; Lisa Rein and Perry Bacon Jr., “Obama proposes 2-year pay freeze,” *The Washington Post*, Nov. 30, 2010, p. A1; Joe Davidson, “President’s salary freeze for federal workers gets cold reception,” *ibid.*, p. B3. For Obama’s remarks, see “Remarks by the President on the Federal Employee Pay Freeze,” Nov. 29, 2010, www.whitehouse.gov/the-press-office/2010/11/29/remarks-president-federal-employee-pay-freeze.

shrank in size and political clout. Federal workers won statutory protection of union rights, while state and local governments continued to enact or enlarge collective bargaining rights for their workers. Public-sector unions grew to surpass 7 million members by century’s end, but the percentage of government workers enrolled in unions was essentially flat. And public-employee unions’ vulnerability to political attack was vividly demonstrated by President Ronald Reagan’s decision to break a nationwide air controllers’ strike in 1981 in his first year in the White House.

Congress solidified federal workers’ rights somewhat as part of the Civil Service Reform Act of 1978. The act’s Title VII — separately entitled the Federal Service Labor Management Statute — codified federal workers’ right to organize and slightly expanded

the scope of collective bargaining previously established by executive order. The act also created the Federal Labor Relations Authority (FLRA) to interpret and administer the act, with a general counsel to prosecute unfair labor practices under the law. While protecting workers’ organizing rights, the act also reinforced federal managers’ control over personnel policy, including hiring, promotions and work assignments. Wages and hours remained outside the scope of bargaining, but the law allowed — without requiring — bargaining over procedures for managers to use in exercising their powers.²³

State and local government workers continued to make incremental gains as well, but with difficulty. The number of states with collective bargaining rights for at least some government workers increased from 16 as

of the mid-1960s to 29 by 1980. Victories were hard-fought. In Florida, for example, the legislature passed a statewide collective bargaining law in 1974 only under duress, six years after the state’s supreme court found bargaining rights guaranteed under the state constitution. California was one of several states to pass a statewide law, in 1977, after first having extended bargaining rights to specific categories of employees. In some states — for example, Indiana in 1989 — bargaining rights were established by executive order after legislative efforts failed. By the end of the century unions had strengthened some of the laws, but the total number of states with collective bargaining rights remained around 30.

Public unions waged their organizing and lobbying efforts under the cloud cast by the 1981 strike by the Professional

Air Traffic Controllers Organization (PATCO) and Reagan's forceful reaction to the work stoppage. The union, formed in 1968, had had a stormy relationship with the Federal Aviation Administration (FAA) for years. In 1981, members voted 20-1 against accepting a proposed contract with a 32-hour work-week and maximum \$59,000 salary; on Aug. 3, some 12,000 controllers staged a nationwide walkout.

Reagan, former president of the Screen Actors Guild, declared the job action illegal, fired the striking controllers, hired new ones and decertified the union. The union got little public support, and supervisors along with military and non-striking civilian controllers kept planes in the air without crippling reductions in flights. Years later, in 1987, a new union, the National Air Traffic Controllers Organization, was formed — with an explicit no-strike pledge in its charter.²⁴

The PATCO strike was actually exceptional. The number and length of strikes have fallen since the days of public-union militancy in the 1960s and '70s. In fact, 13 states have laws today permitting public-employee strikes, typically with exceptions for police and firefighters; Kearney, the North Carolina State professor, says that the bans are ineffective in preventing strikes and that strikes are actually more frequent in states that ban work stoppages than in those with permissive laws.²⁵ Whatever the law, however, striking public employees typically draw little public support since the inconvenience to transit riders or parents of school children is easier to understand than the details of labor negotiations.

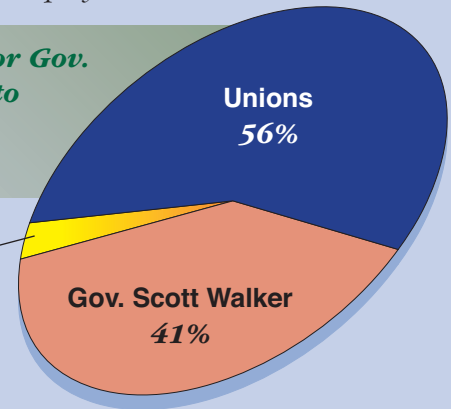
Throughout the period, and to date, public-sector labor relations have remained a partisan issue in Washington and in many state capitals. President Bill Clinton, a Democrat, gave federal unions a small victory in 1993 with an executive order that required agencies to bargain on the issues left optional in the 1978 law. The act also called for the establishment of labor-management

Support Wanes for Wisconsin Governor

A majority of Wisconsin voters initially supported Republican Gov. Scott Walker's effort to curtail bargaining rights for government workers, but public support for the plan has declined. Most voters now back the state's public-employee unions.

Do you support the unions or Gov. Scott Walker when it comes to weakening collective bargaining rights?

Not sure/no opinion
3%



Source: "Wisconsin Poll: Support for Budget Cutting, Not for Weakening Collective Bargaining Rights," Rasmussen Reports, March 3, 2011, www.rasmussenreports.com/public_content/politics/general_state_surveys/wisconsin/wisconsin_poll_support_for_budget_cutting_not_for_weakening_collective_bargaining_rights.

partnerships throughout the executive branch, collaborations that the administration later credited with promoting innovation and productivity. President George W. Bush, a Republican, rescinded the order on Feb. 17, 2001 — less than a month after taking office.²⁶

Later, Bush adopted an aggressive, anti-union stance on a more protracted issue: union rights for workers in the newly created Department of Homeland Security. Bush proposed the creation of the new department — a consolidation of agencies in several departments — in the aftermath of the Sept. 11, 2001, attacks on the World Trade Center and Pentagon. As enacted, the law gave the president the authority to waive collective bargaining rights for designated employees on national security grounds. Bush and GOP lawmakers said the president needed flexibility in structuring the new department. In a key vote, the House of Representatives approved the provision on a party-line vote, 229-201, before final passage on July 26, 2002. The Democratic-controlled Senate passed a

bill without the provision, but Bush prevailed by vowing to veto the measure without it.²⁷

Taking Flak

The Bush administration's attack on worker rights at the federal level presaged a period of similar pressure on public-employee unions in the states. Republican governors in three states — Kentucky, Indiana and Missouri — rescinded collective bargaining rights previously granted by executive order. Other states moved to limit bargaining with teachers' unions over such issues as class size or teacher evaluations. Public-employee unions limited the damage somewhat by winning favorable court rulings, including a victory over the Bush administration's restrictions on bargaining for Homeland Security employees. But GOP victories in state elections in November 2010 touched off a new round of anti-union moves in several states, including the contentious battle fought most dramatically in Wisconsin.

In contrast to the open-ended scope of bargaining in the private sector, state laws for public employees had long taken some issues off the table. In the 1990s, school-reform issues prompted legislatively enacted limits on bargaining with teachers in such states as Illinois, Michigan, Oregon and Wisconsin. Oregon's law, for example, barred bargaining not only on class size and teacher evaluations but also on dress and grooming standards and personal conduct such as smoking and chewing gum. The Michigan Supreme Court in 1995 upheld the constitutionality of the bargaining restrictions enacted there. The Ohio Supreme Court struck down a law challenged by state university faculty that barred bargaining over instructional workload, but the U.S. Supreme Court in 1999 reinstated the measure. By 2008, an education group reported that most states limited teacher bargaining to economic issues, such as wages, hours, health benefits and the like.²⁸

GOP governors in Kentucky, Indiana and Missouri went further in the 2000s by revoking collective bargaining rights granted by executive orders issued by Democratic predecessors. In Kentucky, Republican Ernie Fletcher rescinded collective bargaining rights on his first day in office in December 2003 following a campaign pledge to reduce state personnel costs. Indiana's Daniels and Missouri Gov. Matt Blunt followed suit shortly after taking office in January 2005. Blunt had vowed in his campaign to rescind the executive order issued by his Democratic predecessor in 2001. Blunt's action was later undone, however, by the Missouri Supreme Court. In a 2007 ruling, the court held that a provision in the state constitution guaranteeing collective bargaining rights for "employees" extended to public as well as private-sector workers.²⁹

In Washington, the National Treasury Employees Union had won a more significant victory a year earlier when the U.S. Court of Appeals for the District

of Columbia Circuit struck down the Bush administration's effort to all but abolish bargaining rights for Homeland Security employees. The administration argued the new department needed flexible personnel rules to deal with the range of post-9/11 security issues. But in a unanimous ruling, the three-judge appeals panel said the administration had gone too far by claiming a power to unilaterally abrogate existing labor contracts and limit collective bargaining to individual employee grievances. The provisions, Judge Harry Edwards wrote, "plainly violate the statutory command in the Homeland Security Act that the department 'ensure' collective bargaining for its employees."³⁰

With Democrat Obama in the White House, public-sector unions breathed a sigh of relief in regard to federal labor-management relations in 2009. A year later, however, New Jersey became the first of the battleground states when public-employee unions clashed with a sacrifice-demanding Republican chief executive: Gov. Chris Christie. Christie, a federal prosecutor who ousted a scandal-tainted Democrat, made attacks on public-employee unions his signature issue throughout 2010. Working with a Democratic-controlled legislature, Christie won passage of a law in March that, among other provisions, required teachers to pay 1.5 percent of their pay for health insurance, as state employees already did. In December, he also signed an act limiting local police and firefighters to 2 percent pay increases if union-management talks hit an impasse.³¹

With the GOP gubernatorial and legislative victories in the November 2010 balloting, Walker in Wisconsin and Kasich in Ohio became the highest-profile of the new combatants with public-employee unions. In Ohio, GOP state Sen. Shannon Jones introduced an omnibus measure, Senate Bill 5 (SB 5), on Feb. 9 that, among other changes, would eliminate collective bargaining for state workers,

take health insurance out of collective bargaining for municipal employees and remove binding arbitration for police and firefighters in event of a breakdown in negotiations. The next day, Kasich said he was working on his own bill, which would include a provision to fire striking workers.³²

Walker unveiled his proposal in a news conference in Madison the next day, Feb. 11, calling it necessary to trim the state's budget deficit and avoid layoffs. "I get why unions make sense in the private sector," Walker said in explaining the bill. "But at the public level, it's the government, it's the people, who are the ones who are the employers." Republican legislators applauded the proposal, but it drew fierce criticism from union leaders and some municipal leaders. Dane County executive Falk called it a "draconian" plan. "There's a fair and responsible way to do this," Falk said. Walker, she said, "chose a sledgehammer."³³ ■

CURRENT SITUATION

Continuing Fights

The bitter fights over public-employee union bills in Ohio and Wisconsin are moving into new arenas with political battles possible for the rest of the year.

Wisconsin's bill is on hold at least until late May pending the legal challenge under the state's open-meetings law. In the meantime, opponents are circulating petitions to try to recall eight Republican senators who voted for the measure. Supporters countered by starting drives to recall eight of the 14 Democrats whose boycott stalled passage of the bill for three weeks.

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At Issue:

Should states limit collective bargaining by public-sector unions?



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WRITTEN FOR *CQ RESEARCHER*, APRIL 2011

federal law does not allow the FBI, CIA or Secret Service to collectively bargain. Is this a mistake? Collective bargaining gives public unions a monopoly on the government's workforce. It means government can only employ workers on union terms. This often conflicts with serving the public.

Last year, Milwaukee Public Schools laid off Megan Sampson, the district's "Outstanding First Year Teacher." Why? The school district was short of money, and Milwaukee's education union refused concessions.

The union preferred having a few teachers lose their jobs to having all teachers contribute toward their health insurance. That forced the district to close its deficit with layoffs. Under union rules, those layoffs occur strictly on the basis of seniority. So goodbye, first-year teacher Megan Sampson. Her excellence in teaching children did not matter.

The union sacrificed education quality to protect the pay and job security of its senior members. That is its job. Unions exist to get more for their members, not serve the public good.

This is acceptable in the private sector. Unions there negotiate over business profits, so competition holds them in check. If they get too greedy, they know they will drive their customers away.

The government is different. Government employees do not need unions. Civil service laws already ensure they get treated fairly. Further, competition does not restrain government unions. The government has no competitors and earns no profits. Government unions bargain over tax dollars. As long as the government does not go bankrupt they can keep demanding more.

They do.

Unions make firing government employees exceedingly difficult. That keeps ineffective teachers and abusive social workers on the job. In many states government union members retire in their mid-50s at taxpayer expense. Unions push the government to put their interests above the public's.

Historically, even champions of the labor movement thought this a bad idea. George Meany, the first president of the AFL-CIO, believed that "collective bargaining is impossible in government." President Franklin D. Roosevelt agreed. He considered a government-employee strike "unthinkable and intolerable."

Government should serve the public interest, but unions want their interests to come first. They should not get a monopoly on the government workforce to insist that happens. Union organizing is far less important than effectively educating children or stopping terrorists.



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public-sector workers deserve the right to unionize and collectively bargain with their employers. And governments, like corporations, sometimes need to be reminded by organized workers to treat their employees fairly.

Indeed, the Rev. Martin Luther King Jr. traveled to Memphis in 1968 to help city sanitation workers gain recognition for their union as they faced low pay, terrible working conditions and racist supervisors. Even the conservative icon Ronald Reagan recognized that public-sector workers should be able to collectively bargain. Reagan signed a bill to grant municipal and county employees the right to do so when he was governor of California.

The only reason our country is debating whether public-sector unions should exist is because of an orchestrated political campaign that is trying to use budget deficits as a cover to weaken a political opponent. This smear campaign is deceptive and dangerous.

Opponents claim that public-sector employees are overpaid and are the main drivers of state budget deficits. Both accusations are false. Studies that compare the compensation of public-sector workers to similar private-sector workers — controlling for things like education levels — find that public employees are actually underpaid. Total compensation — including wages and benefits — is less for government workers. Only the erosion of private-sector job quality makes the comparison even somewhat close.

Further, employee compensation is not busting state budget deficits. My research shows that state budget deficits are the result of the Great Recession and that employee compensation as a share of government spending has actually declined over the past decades.

Nor are public-sector unions newly powerful, as opponents argue. Public unionization rates remain at the same level as in the late 1970s. The absence of collective bargaining does not ensure a balanced budget, either. States with very low levels of public-sector unionization — such as Texas, Louisiana and South Carolina — have some of the largest budget shortfalls as a share of their economy.

Finally, collective bargaining is used to negotiate the sharing of pain as well as gain. And government workers are in fact sharing the pain. Significant government jobs have been cut since the recession began. Those still employed in nearly every state have seen cuts in pay and benefits or furloughs.

The bottom line: All workers deserve the right to collectively bargain and negotiate for fair wages and decent working conditions on relatively equal footing with their employer.

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Ohio's new law, SB 5, is also on hold pending a possible referendum on the measure in November.

Opponents have 90 days from Gov. Kasich's signature of the bill on March 30 to gather at least 231,149 signatures of registered voters to put the measure on the Nov. 8 ballot for approval or disapproval.

In Wisconsin, the fight over the labor bill may cost a Republican-appointed state supreme court justice his bid for re-election in April 5 balloting that ended with the outcome in doubt. JoAnne Kloppenburg, an assistant state attorney general, held a 204-vote lead over Justice David Prosser in complete but unofficial returns reported by The Associated Press in mid-afternoon on April 6. Labor, liberal and Democratic groups backing Kloppenburg had portrayed the race as a referendum on Gov. Walker. A recount was expected, possibly several weeks in the future.³⁴

Opponents of the Wisconsin labor bill are marking at least one success: After gathering more than 21,000 signatures — 5,000 more than needed — they forced a recall vote against state Sen. Dan Kapanke, a LaCrosse Republican in his second four-year term. Other recall efforts have until the end of April to gather the needed number of signatures.³⁵

The recall petitions have to be verified by the state's Government Accountability Board, with an election held within six weeks after verification. In Wisconsin's history, five legislators have faced recalls, and two have been defeated. One expert doubts any of the current recalls will succeed.

"The big uncertainty is how long people will remain angry," says Michael Kraft, a professor of political science at the University of Wisconsin-Green Bay. "It's a different world today from when people were demonstrating in front of the Capitol."

In Ohio, opponents of SB 5 may be planning to ask rank-and-file union

members to help fund a referendum campaign with projected costs of up to \$20 million. *The Columbus Dispatch* reported that an email from Larry Wicks, the executive director of the Ohio Education Association, said members may be charged a one-time assessment of \$50 to finance the campaign. A similar message from the president of the Columbus firefighters union said a \$100 assessment was to be considered on April 7. In his email, Wicks said at least \$20 million would be needed for "an effective campaign."³⁶

The 90-day waiting period for a law to take effect in Ohio is standard except for budget measures, according to Mike McClellan, a spokesman for the Ohio secretary of state's office. Opponents have until July 1 to submit the needed number of signatures, equal to 6 percent of the total vote cast in the most recent gubernatorial election. The secretary of state's office has 20 days to verify the signatures.

Kasich won election in November with 49 percent of the vote and a narrow, 77,000-vote margin over the Democratic incumbent, Ted Strickland. A poll in late March showed Kasich's approval at 30 percent — "shockingly low," according to Alexander Lamis, an associate professor of political science at Case Western Reserve University in Cleveland and co-editor of a book on Ohio politics.³⁷

Still, Lamis says labor unions will be challenged to defeat the collective bargaining law in a referendum. "We certainly have strong labor unions," he explains. "But labor has lost a lot of strength. The jobs aren't there anymore."

Wavering Views

Public opinion about government workers appears to be highly malleable even as lawmakers in several states continue to push proposals to limit collective bargaining or other rights of public-employee unions.

Various polls published as the Wisconsin and Ohio legislatures considered bills to limit public-employee unions registered support for requiring government workers to pay more toward health and retirement benefits. But the surveys also found opposition to restricting collective bargaining rights for the unions representing those workers.

The most recent nationwide poll finds that the unions have what the Gallup organization called "a slight edge" over governors in what the survey characterized as "disputes over collective bargaining policies and state budgets." In a telephone survey of slightly more than 1,000 respondents March 25-27, 48 percent said they agreed more with state-employee unions while 39 percent agreed with more with governors. Thirteen percent favored neither side or had no opinion.³⁸

The *USA Today*/Gallup survey showed a sharp partisan split on the issue, with 70 percent of Democrats favoring unions and 65 percent of Republicans siding with governors. Independents were close to evenly split: 45 percent favored unions, 40 percent governors. Young people (18-34) sided with unions by a better than 2-to-1 margin; unions had a narrow edge among the 35-55 age group, while those over 55 split evenly.

In its analysis, Gallup noted previous polls that found opposition to restricting collective bargaining rights but mixed opinions on whether public-employee unions are helpful or harmful on balance to states. "Today," the analysis continued, "neither the governors nor the unions appear to have a strong advantage in the court of public opinion nationally, but the unions do have the slight edge."

Two earlier nationwide surveys registered mixed views about public employee unions. Polls by *The New York Times*/CBS News and NBC News/*Wall Street Journal* both found about 60 percent of respondents opposed to "taking away" or "eliminating" what both surveys called "collective bargaining rights." *The Times*/CBS poll also found

a 56 percent majority opposed to cutting the pay or benefits of public employees to reduce budget deficits.

On the other hand, the NBC/*Journal* poll found solid support for requiring public employees to contribute more toward retirement benefits (68 percent) and health insurance (63 percent). A majority — 58 percent — also said it would be acceptable to freeze public employees' salaries for one year. And a 37 percent plurality in *The Times*/CBS survey said that public-employee unions have “too much” influence on American life and politics.³⁹

One poll in Ohio indicates the importance of the phrasing of questions in surveys on the issues. The Quinnipiac University poll found a 48 percent to 41 percent plurality opposed to bills limiting “collective bargaining,” but opposition increased to 54 percent among a different sample asked about a bill to limit “collective bargaining rights.”⁴⁰

The Gallup survey noted a significant difference in the split of opinion depending on how closely respondents were following the issues. Those following them “very closely” were almost evenly divided (49 percent to 48 percent in favor of unions); groups paying less attention registered strong support for unions: 52 percent to 41 percent among those following “somewhat closely” and 45 percent to 31 percent among those following “not closely or not at all.” ■

OUTLOOK

Troubled Times

A rising tide lifts all boats, President John F. Kennedy liked to remark in talking about the shared benefits of a growing economy. In a sinking ship, however, the often used idiom is, “Every man for himself.”

For the past four years, the U.S. econ-

omy has been foundering instead of being lifted up with a rising tide. The housing bubble burst, big banks failed, the economy stalled and unemployment reached nearly 10 percent. With so much economic insecurity, many Americans were open to arguments that government employees were being spared most of the pain thanks to their unions' unfairly exploiting their political and economic power.

The Wisconsin and Ohio laws give effect to the widespread view that public-sector workers should be paying more for health and retirement benefits. But the detailed provisions go much further to limit the power of public-employee unions at the collective bargaining table and in the political arena.

Experts sympathetic to the labor movement see the laws, and the political attacks behind them, as a prelude to a long fight. “We’re headed for a prolonged period of conflict and labor war if the Wisconsin model drives this in the future,” says MIT professor Kochan. “You just can’t attack workers’ rights in as bald a fashion as they did in Wisconsin and not get the kind of backlash we’ve seen.”

“This is not an issue the unions are going to give up on,” says Kearney at North Carolina State. “These states could be the death knell of collective bargaining.”

Critics of public-employee unions likewise expect continued conflict. “As long as the states are in serious financial difficulty, this will remain a political issue,” says UCLA’s Bainbridge. “I suspect this is not going to go away at the end of the 2012 election cycle.”

Union leaders, however, are professing optimism about the likely course of the issues. “I think this anti-union wave has crested,” says AFSCME’s Kreisberg. He expects some Wisconsin senators to be recalled and the Ohio bill to be repealed by referendum. “We’ll be seeing repercussions,” he warns.

AFSCME president Gerald McEntee goes further. With the Wisconsin bill pending, he predicted that labor leaders would harness the energy from the anti-Walker protests and turn it into “a real resur-

gence for labor.” But DiSalvo, the union critic at City College of New York, is dubious. “Maybe there’s energy, but I don’t quite see the avenue that that energy is going to take,” he says.⁴¹

In Wisconsin, Walker’s supporters are celebrating their victory, even while the bill is in limbo pending a court challenge of uncertain outcome. “The first round goes to the taxpayer,” says Seaholm with Americans for Prosperity, “and we’re going to keep fighting until the taxpayers ultimately win.”

For state employees, the Wisconsin law is conversely a defeat. Many are apparently considering voting with their feet before current collective bargaining contracts expire and the law’s provisions start to bite. The state’s Department of Employee Trust Funds reports that it is “experiencing an extremely high volume of calls, emails, and in-person contacts from Wisconsin Retirement System members who are considering retiring on a relatively short timeline.”⁴²

Already retired, former consumer-complaint investigator Reid regrets what he sees as the implication of the controversy. “We seem to have lost the willingness to help each other out,” Reid says. “Instead of dragging people down, we should be lifting people up.” ■

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About the Author



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FOR MORE INFORMATION

Here are some of the major unions representing public-sector workers, with membership figures as provided by websites or other sources:

American Federation of Government Employees, 80 F St., N.W., Washington, DC 20001; (202) 737-8700; www.afge.org (250,000).

American Federation of State, County and Municipal Employees (AFSCME), 1625 L St., N.W., Washington, DC 20036-5687; (202) 429-1000; www.afscme.org (1.6 million).

American Federation of Teachers, 555 New Jersey Ave., N.W., Washington, DC 20001; (202) 879-4400; www.aft.org (1.5 million).

Fraternal Order of Police, 701 Marriott Drive, Nashville, TN 37214; (615) 399-0900; www.grandlodgefop.org/ (325,000).

International Association of Fire Fighters, 1750 New York Ave., N.W., Suite 300, Washington, DC 20006; (202) 737-8484; www.iaff.org (298,000).

National Education Association, 1201 16th St., N.W., Washington, DC 20036; (202) 833-4000; www.nea.org (3.2 million).

National Treasury Employees Union, 1750 H St., N.W., Washington, DC 20006; (202) 572-5500; www.nteu.org (90,000).

Service Employees International Union, 1800 Massachusetts Ave., N.W., Washington, DC 20036; (202) 350-6600; www.seiu.org (2.2 million).

Other organizations that follow public-employee union issues:

AFL-CIO, 815 16th St., N.W., Washington, DC 20006; (202) 974-8222; www.aflcio.org. Major labor federation formed in 1955 and representing 12.2 million workers.

Americans for Prosperity, 2111 Wilson Blvd., Suite 350, Arlington, VA 22201; (866) 730-0150; www.americansforprosperity.org. Advocacy organization to promote principles of entrepreneurship and fiscal and regulatory restraint.

Center for American Progress, 1333 H St., N.W., #1, Washington, DC 20005; (202) 682-1611; www.americanprogress.org. Advocacy group founded in 2003 to promote progressive ideas and policies.

Center for Economic and Policy Research, 1611 Connecticut Ave., N.W., Suite 400, Washington, DC 20009; (202) 293-5380; www.cepr.net. Research and public-education organization to promote debate on important social and economic issues.

Club for Growth, 2001 L St., N.W., Suite 600, Washington, DC 20036; (202) 955-5500; www.clubforgrowth.org. National network to promote pro-growth economic policies; unaffiliated with state organizations bearing same name.

Crossroads GPS, P.O. Box 34413, Washington, DC 20043; (202) 706-7051; www.crossroadsgps.org. Policy and grassroots advocacy organization focusing on key economic and legislative issues.

Employment Policy Research Network, c/o Labor and Employment Relations Association, University of Illinois, Urbana-Champaign, School of Labor and Employment Relations, 504 E. Armory Ave., Champaign, IL 61820; (217) 244-0725; www.employmentpolicy.org. A network of 120 researchers at 40 research institutions, launched in early 2011, that publishes evidence-based research on the state of work and employment in the United States.

Heritage Foundation, 214 Massachusetts Ave., N.E., Washington, DC 20002; (202) 546-4400; www.heritage.org. Research and educational think tank founded in 1973 to promote conservative policies.

U.S. Chamber of Commerce, 1615 H St., N.W., Washington, DC 20062; (202) 659-6000; www.uschamber.com. Nonprofit organization representing business interests before Congress, federal agencies and the courts.

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Wisconsin Resources

Gov. Scott Walker and his major union adversary in the battle over Senate bill 10, American Federation of State, County and Municipal Employees Council 24, both have extensive material about the bill on websites. The media center page on the governor's website has various releases about the so-called budget repair bill beginning Feb. 11: <http://walker.wi.gov/mediaroom.asp?locid=177>. SEPAC, the union's political arm, has information about what it calls the anti-collective bargaining bill on its website: www.wseu-sepac.org/.

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The Next Step:

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