Connecticut Debate Association

State Finals, Wilton High School, March 26, 2011

Resolved: The US should ban collective bargaining by public sector labor unions.

Trade union

From Wikipedia, the free encyclopedia

A **trade union** (British English) or **labor union** (American English) is an organisation of workers that have banded together to achieve common goals such as better working conditions. The trade union, through its leadership, bargains with the employer on behalf of union members (rank and file[1] members) and negotiates labour contracts (collective bargaining) with employers. This may include the negotiation of wages, work rules, complaint procedures, rules governing hiring, firing and promotion of workers, benefits, workplace safety and policies. The agreements negotiated by the union leaders are binding on the rank and file members and the employer and in some cases on other non-member workers.

A Union Education

Editorial, The Wall Street Journal, 1 March 2011

The raucous Wisconsin debate over collective bargaining may be ugly at times, but it has been worth it for the splendid public education. For the first time in decades, Americans have been asked to look under the government hood at the causes of runaway spending. What they are discovering is the monopoly power of government unions that have long been on a collision course with taxpayers. Though it arrived in Madison first, this crack-up was inevitable.

We first started running the nearby chart (see accompanying chart -- WSJ March 1, 2011) on the trends in public and private union membership many years ago. It documents the great transformation in the American labor movement over the latter decades of the 20th century. A movement once led by workers in private trades and manufacturing evolved into one dominated by public workers at all levels of government but especially in the states and cities.

The trend is even starker if you go back a decade earlier. In 1960, 31.9% of the private work force belonged to a union, compared to only 10.8% of government workers. By 2010, the numbers had more than reversed, with 36.2% of public workers in unions but only 6.9% in the private economy.

The sharp rise in public union membership in the 1960s and 1970s coincides with the movement to give public unions collective bargaining rights. Wisconsin was the first state to provide those rights in 1959, other states followed, and California became the biggest convert in 1978 under Jerry Brown in his first stint as Governor. President Kennedy let some federal workers organize (though not collectively bargain) for the first time in 1962, a gambit to win union support for his re-election after his cliffhanger victory in 1960.

It's important to understand how revolutionary this change was. For decades as the private union movement rose in power, even left-of-center politicians resisted collective bargaining for public unions. We've previously mentioned FDR and Fiorello La Guardia. But George Meany, the legendary AFL-CIO president during the Cold War, also opposed the right to bargain collectively with the government.

Why? Because unlike in the private economy, a public union has a natural monopoly over government services. An industrial union will fight for a greater share of corporate profits, but it also knows that a business must make profits or it will move or shut down. The union chief for teachers, transit workers or firemen knows that the city is not going to close the schools, buses or firehouses.

This monopoly power, in turn, gives public unions inordinate sway over elected officials. The money they collect from member dues helps to elect politicians who are then supposed to represent the taxpayers during the next round of collective bargaining. In effect union representatives sit on both sides of the bargaining table, with no one sitting in for taxpayers. In 2006 in New Jersey, this led to the preposterous episode in which Governor Jon Corzine addressed a Trenton rally of thousands of public workers and shouted, "We will fight for a fair contract." He was promising to fight himself.

Thus the collision course with taxpayers. Public unions depend entirely on tax revenues to fund their pay and benefits. They thus have every incentive to elect politicians who favor higher taxes and more government spending. The great expansion of state and local spending followed the rise of public unions.

Professors Fred Siegel and Dan DiSalvo point out that even during the Reagan years, growth in state and local government jobs was double the rate of population growth. The effect on the private economy is a second order problem for public unions, as we've seen from the recession's far more damaging impact on private than on public workers.

Current AFL-CIO chief Rich Trumka has tried to portray Wisconsin Governor Scott Walker's reforms as an attack on all unions, but they clearly are not. If anything, by reining in public union power, Mr. Walker is trying to protect private workers of all stripes from the tax increases that will eventually have to finance larger government. Regarding public finances, the interests of public union workers and those of private union taxpayers are in direct conflict. Mr. Walker is the better friend of the union manufacturing worker in Oshkosh than is Mr. Trumka.

Notice, too, how fiercely the public unions are willing to fight for collective bargaining power even if it means public job layoffs. Without Mr. Walker's budget reforms, Wisconsin will have to begin laying off thousands of workers as early as today. The unions would rather give up those jobs -- typically for their younger members -- than give up their political negotiating advantages. They know some future Governor or legislature will get those jobs back, as long as they retain their inordinate political clout.

This is the imbalance of political power that Mr. Walker is trying to break up, and he is right to do so. As important, the public in Wisconsin and around the U.S. seems to be listening and absorbing his message. The cause has been helped by the sit-ins and shouting of union members, the threats toward politicians who disagree with them, and by the flight of Democratic state senators to undisclosed locations in Illinois. It's hard to claim you're protecting democracy when you won't show up to vote. Taxpayers need to win the battle of Wisconsin for the sake of self-government.

Scott Walker's False Choice

By Richard Trumka, The Wall Street Journal, 4 March 2011

Close to 200,000 working Wisconsinites have been given the following option by Gov. Scott Walker: If you want to keep your job, give up your rights. If you want to keep your rights, you're going to be laid off.

This is downright un-American. The governor's choice is a false one, manufactured for political reasons.

The real question, the one at the heart of our economic debate, is this: Do we continue down a path that delivers virtually all income growth to the richest 1% of Americans, or do we commit to rebuilding a thriving middle class?

We believe to address this question, it's crucial that we sit down at the table together and find a way to grow without taking more away from the middle class.

The business climate couldn't be stronger. Corporate profits reached an annualized level of $1.7 trillion in the third quarter of 2010, the highest figure since the government began keeping statistics 60 years ago.

But, as we've seen, high corporate profits aren't enough to drive robust and equitable economic growth. Three years after the onset of this epic recession, unemployment is still near double digits, millions of Americans are facing home foreclosure, and wages have been stagnant. In our consumer-driven economy, that pulls down businesses as well as tax revenues. Our entire economy is weaker when we have the kind of income inequality that we have today.

The freedom of workers to come together to bargain for decent living standards, safe workplaces, and dignity on the job has been a cornerstone of building our middle class. It's also recognized in Article 23 of the Universal Declaration of Human Rights. This right ensures that there is sufficient spending power to drive the consumer demand, which makes up two-thirds of our GDP. And it benefits all Americans -- not just those who are in unions.

It's no secret that boosting corporate profits no longer translates into shared prosperity. Many private-sector companies have gone to extraordinary lengths in recent years to effectively eliminate the freedom of workers to come together to bargain to lift living standards. That's one reason middle-class wages have stagnated since the 1970s, and why the U.S. is at risk of becoming an hourglass economy -- one with all the income at the top and people at the bottom.

Sadly, a group of radical Republican governors is working overtime to export the most short-sighted private-sector labor practices into the public sector. Not only are they demanding steep cuts in wages and pensions for public workers, they also want to take away workplace rights, so that workers can no longer bargain for better compensation and benefits.

Their claim is that public workers have become parasites, busting state budgets with bloated wages and benefits at a terrible cost to taxpayers.

But average citizens have little interest in taking away workers' rights. According to a CBS/New York Times survey, Americans support bargaining rights for public workers by a nearly two-to-one margin. Despite their best efforts, governors like Scott Walker haven't convinced Americans that public workers are at fault for state budget woes.

Nor does economic research support their arguments. When adjusted for education, experience and training, the data show that public-sector workers are paid less than their private-sector counterparts. Right now, state and municipal budgets are in trouble primarily because of high unemployment, falling incomes, and losses in the stock market. Together, these lead to lower tax revenues and depleted pension funds

It wasn't teachers or firefighters or nurses who crashed the stock market and caused the recession that led to millions of layoffs and foreclosures. It was the so-called engine of our economy -- Wall Street -- which has suffered no consequence after nearly destroying the global financial system in 2008. Wall Street bonuses averaged over $128,000 per person in 2010, more than six times the average pension for a retired public-service worker in Wisconsin.

So here's working America's message to governors like Scott Walker and New Jersey's Chris Christie: We believe in shared sacrifice. But we don't believe in your version of shared sacrifice, where the wealthy and Wall Street reap all the benefits of economic growth, and working people do all the sacrificing.

We need to improve the climate for America's middle class. We need tough rules to protect the health of workers and consumers, fair taxes on the super-rich to support decent public services, fair trade policies, and a 21st century approach to workplace rights, which recognizes that high-performance enterprises depend on making employees a part of the team.

That's a recipe that can repair not only our budgets, but also our body politic.

Mr. Trumka is president of the AFL-CIO.

Unions vs. the Right to Work

The Wall Street Journal, 28 February 2011, By Robert Barro

How ironic that Wisconsin has become ground zero for the battle between taxpayers and public- employee labor unions. Wisconsin was the first state to allow collective bargaining for government workers (in 1959), following a tradition where it was the first to introduce a personal income tax (in 1911, before the introduction of the current form of individual income tax in 1913 by the federal government).

Labor unions like to portray collective bargaining as a basic civil liberty, akin to the freedoms of speech, press, assembly and religion. For a teachers union, collective bargaining means that suppliers of teacher services to all public school systems in a state -- or even across states -- can collude with regard to acceptable wages, benefits and working conditions. An analogy for business would be for all providers of airline transportation to assemble to fix ticket prices, capacity and so on. From this perspective, collective bargaining on a broad scale is more similar to an antitrust violation than to a civil liberty.

In fact, labor unions were subject to U.S. antitrust laws in the Sherman Antitrust Act of 1890, which was first applied in 1894 to the American Railway Union. However, organized labor managed to obtain exemption from federal antitrust laws in subsequent legislation, notably the Clayton Antitrust Act of 1914 and the National Labor Relations Act of 1935.

Remarkably, labor unions are not only immune from antitrust laws but can also negotiate a "union shop," which requires nonunion employees to join the union or pay nearly equivalent dues. Somehow, despite many attempts, organized labor has lacked the political power to repeal the key portion of the 1947 Taft Hartley Act that allowed states to pass right-to-work laws, which now prohibit the union shop in 22 states. From the standpoint of civil liberties, the individual right to work -- without being forced to join a union or pay dues -- has a much better claim than collective bargaining. (Not to mention that "right to work" has a much more pleasant, liberal sound than "collective bargaining.") The push for right-to-work laws, which haven't been enacted anywhere but Oklahoma over the last 20 years, seems about to take off.

The current pushback against labor-union power stems from the collision between overly generous benefits for public employees -- notably for pensions and health care -- and the fiscal crises of state and local governments. Teachers and other public-employee unions went too far in convincing weak or complicit state and local governments to agree to obligations, particularly defined-benefit pension plans, that created excessive burdens on taxpayers.

In recognition of this fiscal reality, even the unions and their Democratic allies in Wisconsin have agreed to Gov. Scott Walker's proposed cutbacks of benefits, as long as he drops the restrictions on collective bargaining. The problem is that this "compromise" leaves intact the structure of strong public-employee unions that helped to create the unsustainable fiscal situation; after all, the next governor may have less fiscal discipline. A long-run solution requires a change in structure, for example, by restricting collective bargaining for public employees and, to go further, by introducing a right-to-work law.

There is evidence that right-to-work laws -- or, more broadly, the pro-business policies offered by right-to-work states -- matter for economic growth. In research published in 2000, economist Thomas Holmes of the University of Minnesota compared counties close to the border between states with and without right-to-work laws (thereby holding constant an array of factors related to geography and climate). He found that the cumulative growth of employment in manufacturing (the traditional area of union strength prior to the rise of public-employee unions) in the right-to-work states was 26 percentage points greater than that in the non-right-to-work states.

Beyond Wisconsin, a key issue is which states are likely to be the next political battlegrounds on labor issues. In fact, one can interpret the extreme reactions by union demonstrators and absent Democratic legislators in Wisconsin not so much as attempts to influence that state -- which may be a lost cause -- but rather to deter politicians in other states from taking similar actions. This strategy may be working in Michigan, where Gov. Rick Snyder recently asserted that he would not "pick fights" with labor unions.

In general, the most likely arenas are states in which the governor and both houses of the state legislature are Republican (often because of the 2010 elections), and in which substantial rights for collective bargaining by public employees currently exist. This group includes Indiana, which has recently been as active as Wisconsin on labor issues; ironically, Indiana enacted a right-to-work law in 1957 but repealed it in 1965. Otherwise, my tentative list includes Michigan, Pennsylvania, Maine, Florida, Tennessee, Nebraska (with a nominally nonpartisan legislature), Kansas, Idaho, North Dakota and South Dakota.

The national fiscal crisis and recession that began in 2008 had many ill effects, including the ongoing crises of pension and health-care obligations in many states. But at least one positive consequence is that the required return to fiscal discipline has caused reexamination of the growth in economic and political power of public-employee unions. Hopefully, embattled politicians like Gov. Walker in Wisconsin will maintain their resolve and achieve a more sensible long-term structure for the taxpayers in their states.

Mr. Barro is a professor of economics at Harvard and a senior fellow at Stanford University's Hoover Institution.

Don't join the government to get rich

The Economist, Democracy in America, Feb 21st 2011, 14:55 by M.S.

ONE of the memes being thrown around over the past few years by advocates of reducing the power of public-sector unions has been the claim that public-sector workers are overpaid in comparison to their private-sector counterparts. I've always considered this an odd claim to hear, as I've been in the labour market for quite a long time and can't recall ever hearing anyone say they were going to work for a government bureaucracy because they wanted to make a lot of money. At crucial career-making junctures in life, people who want to get rich tend to enter corporate law rather than join the District Attorney's office, to work for internet companies rather than teach math in public high schools, and so forth.

All of this is coming up now because Wisconsin has become the showdown state for the public-sector union controversy, and Scott Walker, the governor, is claiming he needs to destroy the state's public-sector unions' ability to negotiate in order to deal with its budget shortfall. State workers, he says, are paid too much. But the Economic Policy Institute tells us that, in Wisconsin, public-sector workers are not in fact paid more than their private-sector counterparts. They're paid less. You can only make it appear that public-sector workers earn more by ignoring the fact that "both nationally and within Wisconsin, public sector workers are significantly more educated than their private sector counterparts."

Nationally, 54% of full-time state and local public sector workers hold at least a four-year college degree, compared with 35% of full-time private sector workers. In Wisconsin, the difference is even greater: 59% of full-time Wisconsin public sector workers hold at least a four-year college degree, compared with 30% of full-time private sector workers.

...Public employees receive substantially lower wages, but much better benefits than their private sector counterparts. Wisconsin state and local governments pay public employees 14.2% lower annual wages than comparable private sector employees. On an hourly basis, they earn 10.7% less in wages. College-educated employees earn on average 28% less in wages and 25% less in total compensation in the public sector than in the private sector.

The EPI study does find there's a class of public-sector workers who earn a bit more than their private-sector counterparts: those without high-school degrees. In other words, district attorneys earn less than corporate lawyers, but janitors at the district attorney's office may earn more than janitors at a corporate law office—provided the government hasn't outsourced its facilities staff to the same private company the law office uses, which it may have, since governments have been targeting low-skilled workers for outsourcing precisely because that's how they can save money.

For most people who work for the government, however, the expectation is that your year-to-year salary will be lower, but your benefits will be better, in particular your pension. It turns out, however, that state governments won't have the money to pay a lot of those pensions. They're likely to renege on their promises, and Republicans in Congress want to allow them to declare bankruptcy in order to do so. (Funnily enough, this may be the one area in which labour unions and Wall Street are in alliance: neither one wants states to be allowed to declare bankruptcy.) In other words, as Ezra Klein points out, the public-sector employees got rooked: they accepted lower pay in exchange for retirement benefits, and now the retirement benefits look unlikely to come through.

Now, how can we explain the fact that public-sector employees are paid less than private-sector employees? After all, public-sector employees are heavily unionised, while private-sector employees aren't. Shouldn't those unions be winning public-sector employees better wages? Well, I don't really know; perhaps the fact that the government is a monopoly employer with staggering market power has something to do with it. But try considering how employees' wage negotiations with the government might look if there were no public-sector unions. In most lines of work, individuals' power to negotiate higher wages with large organisations is very limited. In government employment, individuals' power to negotiate higher wages is utterly non-existent. An individual teacher who bargains with a private school for a higher wage than her peers is going to have a tough negotiation on her hands; an individual teacher who tries to bargain with the City of Milwaukee for a higher wage than her peers is going to be laughed out of the superintendent's office. In his initial post on this subject, my colleague ventured that civil servants would constitute a powerful bloc able to protect their wages even without unions. I'm not really sure what this means. Through what mechanism are civil servants supposed to bargain for wage increases if they don't have unions? Who's supposed to do the bargaining?

Oh, To Be a Teacher in Wisconsin

The Wall Street Journal, 25 February 2011, By Robert M. Costrell

The showdown in Wisconsin over fringe benefits for public employees boils down to one number: 74.2. That's how many cents the public pays Milwaukee public-school teachers and other employees for retirement and health benefits for every dollar they receive in salary. The corresponding rate for employees of private firms is 24.3 cents.

Gov. Scott Walker's proposal would bring public-employee benefits closer in line with those of workers in the private sector. And to prevent benefits from reaching sky-high levels in the future, he wants to restrict collective-bargaining rights.

The average Milwaukee public-school teacher salary is $56,500, but with benefits the total package is $100,005, according to the manager of financial planning for Milwaukee public schools. When I showed these figures to a friend, she asked me a simple question: "How can fringe benefits be nearly as much as salary?" The answers can be found by unpacking the numbers in the district's budget for this fiscal year:

-- Social Security and Medicare. The employer cost is 7.65% of wages, the same as in the private sector.

-- State Pension. Teachers belong to the Wisconsin state pension plan. That plan requires a 6.8% employer contribution and 6.2% from the employee. However, according to the collective-bargaining agreement in place since 1996, the district pays the employees' share as well, for a total of 13%.

-- Teachers' Supplemental Pension. In addition to the state pension, Milwaukee public-school teachers receive an additional pension under a 1982 collective-bargaining agreement. The district contributes an additional 4.2% of teacher salaries to cover this second pension. Teachers contribute nothing.

-- Classified Pension. Most other school employees belong to the city's pension system instead of the state plan. The city plan is less expensive but here, too, according to the collective-bargaining agreement, the district pays the employees' 5.5% share.

Overall, for teachers and other employees, the district's contributions for pensions and Social Security total 22.6 cents for each dollar of salary. The corresponding figure for private industry is 13.4 cents. The divergence is greater yet for health insurance:

-- Health care for current employees. Under the current collective- bargaining agreements, the school district pays the entire premium for medical and vision benefits, and over half the cost of dental coverage. These plans are extremely expensive.

This is partly because of Wisconsin's unique arrangement under which the teachers union is the sponsor of the group health-insurance plans. Not surprisingly, benefits are generous. The district's contributions for health insurance of active employees total 38.8% of wages. For private-sector workers nationwide, the average is 10.7%.

-- Health insurance for retirees. This benefit is rarely offered any more in private companies, and it can be quite costly. This is especially the case for teachers in many states, because the eligibility rules of their pension plans often induce them to retire in their 50s, and Medicare does not kick in until age 65. Milwaukee's plan covers the entire premium in effect at retirement, and retirees cover only the growth in premiums after they retire.

As is commonly the case, the school district's retiree health plan has not been prefunded. It has been pay-as-you-go. This has been a disaster waiting to happen, as retirees grow in number and live longer, and active employment shrinks in districts such as Milwaukee.

For fiscal year 2011, retiree enrollment in the district health plan is 36.4% of the total. In addition to the costs of these retirees' benefits, Milwaukee is, to its credit, belatedly starting to prefund the benefits of future school retirees. In all, retiree health-insurance contributions are estimated at 12.1% of salaries (of which 1.5% is prefunded).

Overall, the school district's contributions to health insurance for employees and retirees total about 50.9 cents on top of every dollar paid in wages. Together with pension and Social Security contributions, plus a few small items, one can see how the total cost of fringe benefits reaches 74.2%.

What these numbers ultimately prove is the excessive power of collective bargaining. The teachers' main pension plan is set by the state legislature, but under the pressure of local bargaining, the employees' contribution is often pushed onto the taxpayers. In addition, collective bargaining led the Milwaukee public school district to add a supplemental pension plan -- again with no employee contribution. Finally, the employees' contribution (or lack thereof) to the cost of health insurance is also collectively bargained.

As the costs of pensions and insurance escalate, the governor's proposal to restrict collective bargaining to salaries -- not benefits -- seems entirely reasonable.

Mr. Costrell is professor of education reform and economics at the University of Arkansas.

Unions Debate What to Give to Save Bargaining

The New York Times, February 27, 2011, By MICHAEL COOPER and STEVEN GREENHOUSE

As Wisconsin's governor and public employees square off in the biggest public sector labor showdown since Ronald Reagan fired striking air traffic controllers in 1981, government employees' unions in a range of states are weighing whether to give ground on wages, benefits and work rules to preserve basic bargaining rights.

It is not yet clear whether Gov. Scott Walker of Wisconsin will succeed in his quest to strip public employee unions of most of their bargaining rights. But by simply pressing the issue, he has already won major concessions that would have been unthinkable just a month ago.

Some of Wisconsin's major public sector unions, faced with what they see as a threat to their existence, have decided to accept concessions that they had been vigorously fighting: they said they would agree to have more money deducted from workers' paychecks to go toward their pensions and health benefits, translating into a pay cut of around 7 percent.

But Mr. Walker is not settling for that. He said that those concessions were "an interesting development, because a week ago they said that's not acceptable."

In Tennessee, where teachers are fighting a bill that would repeal the 1978 law that gave them the right to bargain collectively, they have already signaled that they would be willing to make some concessions on tenure, said Jerry Winters, the manager of government relations for the Tennessee Education Association, which represents 52,000 teachers. And he said negotiations could be tough in the current atmosphere.

"When you're fighting to keep the very right to have collective bargaining, it's going to have some impact on what you do in your bargaining," he said.

The sudden spate of bills seeking to eliminate or weaken collective bargaining — and the fierce protests by unions trying to preserve those rights — are largely a product of November's elections. Those elections brought a new class of conservative Republican governors to power, including Mr. Walker and Gov. John Kasich of Ohio, who is also taking aim at collective bargaining. Republicans won control of both houses of 25 state legislatures, up from 14.

Now some of those newly powerful Republicans have decided to check the power of public sector unions, saying they have long used their political influence to win wages and benefits that the lawmakers believe are not affordable. Democrats, however, see the anti-union bills as an effort to weaken organized labor, which has long been one of their major sources of support.

Several Republicans seeking to overhaul labor laws said that they felt strong constituent support for taking on public sector unions. These unions have lost considerable popular support in recent years from private sector workers, many of whom no longer enjoy the job protection, health benefits and, especially, pension plans that many state and local workers still have.

Mr. Walker, who has called public sector workers “haves” and private sector workers “have-nots,” said in an interview last week that he was looking for a long-term solution to Wisconsin’s budget problems. “We’re asking for a reasonable amount from state and local workers,” he said, “and most people in the private sector will say what we’re asking for is pretty modest.”

Robert B. Reich, who was secretary of labor in the Clinton administration, said he saw the effort to curtail bargaining rights as a politically motivated act by Republican governors. “Wisconsin state workers have already signaled their willingness to give the governor what he wants in concessions — they just don’t want to give up the right to bargain,” said Mr. Reich, one of the more liberal voices in the Clinton White House. “We’re likely to see the same pattern across the country. This is exactly the pattern we’ve seen over the last 20 years in the private sector.”

But some labor leaders said the governors were overreaching, and could create a measure of public sympathy for government employees’ unions by shifting the conversation from whether they earn overly generous benefits to whether they should have the right to negotiate at all. “I think it’s been a galvanizing force, a seminal moment for American labor,” said Gerald McEntee, president of the American Federation of State, County and Municipal Employees.

Art Pulaski, the chief officer of the California State Labor Federation, said the Wisconsin standoff could encourage some Republican governors to take a harsher stance in bargaining. “But for those with a more moderate stance, those not tied to the Republican strategy, I think they’re going to hold back, and say: ‘Wait a minute. The response is so vigorous and spontaneous and strong, we have to be careful how far we go on this,’ ” he said.

But focusing national attention on public employees’ benefits could put unions on the defensive in many states. Thomas A. Kochan, a professor of industrial relations at the Sloan School of Management at the Massachusetts Institute of Technology, said he thought unions were increasingly recognizing reality. “There has to be a new bargain in the public sector on pension costs and health care costs, and to get out front on it,” he said. “That helps them take that issue off the table and to focus on the issue of worker rights and the attack on unions.”

Anti-union groups, seeing this as their moment, are urging governors not to settle for economic concessions. Tim Phillips, head of Americans for Prosperity — a conservative, free-market advocacy group that was created and financed in part by the billionaire brothers Charles G. and David H. Koch — said Mr. Walker should push for a “complete victory.”

“If you just did the cuts to pension and benefits without the changes to collective bargaining,” Mr. Phillips said, “it helps in the short term, but over the long term, benefits will creep back up again.”

Several union members protesting at Wisconsin’s Capitol last week said they did not think the unions were losing by offering concessions to preserve their right to bargain. “I don’t feel that you lose when you give something to gain something,” said Rachelle LaFave, 36, a mail carrier from Madison. “That’s how democracy is supposed to work.”

Bryan Kennedy, president of the Wisconsin branch of the American Federation of Teachers, said preserving bargaining was crucial. “Most of our contracts are about the working conditions, about grievances and hours and vacation and sick leave and when our breaks are and what our schedules look like,” he said.

Gov. Chris Christie of New Jersey, a Republican who has been assertively trying to scale back public employees’ benefits, pointed out that many unions had gotten state legislatures and governors to award their members benefits that the local cities and counties they were negotiating with did not want to give.

“The thing that kind of makes me laugh about this whole conversation is you have union leaders now talking about the sanctity of collective bargaining,” said Mr. Christie, who said he had no plans to take away bargaining rights in New Jersey. “But the collective bargaining situation is not that way when they don’t get what they want. When they don’t get what they want, they go to the legislature. And then they legislate those benefits that they couldn’t get at the collective bargaining table.”

Mayors, whose bargaining powers are often set by state law, have been watching the battle closely. Several cities — including Newark and Camden, N.J. — were forced to lay off police officers when their unions failed to agree to concessions. In Toledo, Ohio, Mayor Michael P. Bell is watching with added interest.

As a young firefighter, Mayor Bell was laid off for a year before he was rehired. He eventually rose to chief. When he took office last year as an independent, he faced a $48 million deficit. He closed part of it by winning union concessions, after threatening to impose them by invoking a little-used law that lets mayors do so in "exigent circumstances." Now, he said, he supports bargaining rights but wants to find a way to give the city power to alter contracts in hard times.

"In local governments and even in our school system, there's no ability to hit a reset button — the only option that a lot of cities have is to lay off a large amount of people," Mr. Bell said. "Nobody's going to come to your city if you don't have police officers or firefighters, or you're not picking up your trash."

Kate Zernike and Sabrina Tavernise contributed reporting.

Majority in Poll Back Employees in Public Sector Unions

The New York Times, February 28, 2011, By MICHAEL COOPER and MEGAN THEE-BRENAN

As labor battles erupt in state capitals around the nation, a majority of Americans say they oppose efforts to weaken the collective bargaining rights of public employee unions and are also against cutting the pay or benefits of public workers to reduce state budget deficits, according to the latest New York Times/CBS News poll.

Labor unions are not exactly popular, though: A third of those surveyed viewed them favorably, a quarter viewed them unfavorably, and the rest said they were either undecided or had not heard enough about them. But the nationwide poll found that embattled public employee unions have the support of most Americans — and most independents — as they fight the efforts of newly elected Republican governors in Wisconsin and Ohio to weaken their bargaining powers, and the attempts of governors from both parties to cut their pay or benefits.

Americans oppose weakening the bargaining rights of public employee unions by a margin of nearly two to one: 60 percent to 33 percent. While a slim majority of Republicans favored taking away some bargaining rights, they were outnumbered by large majorities of Democrats and independents who said they opposed weakening them.

Those surveyed said they opposed, 56 percent to 37 percent, cutting the pay or benefits of public employees to reduce deficits, breaking down along similar party lines. A majority of respondents who have no union members living in their households opposed both cuts in pay or benefits and taking away the collective bargaining rights of public employees.

Governors in both parties have been making the case that public workers are either overpaid or have overly generous health and pension benefits. But 61 percent of those polled — including just over half of Republicans — said they thought the salaries and benefits of most public employees were either "about right" or "too low" for the work they do.

When it came to one of the most debated, and expensive, benefits that many government workers enjoy but private sector workers do not — the ability to retire early, and begin collecting pension checks — Americans were closely divided. Forty-nine percent said police officers and firefighters should be able to retire and begin receiving pension checks even if they are in their 40s or 50s; 44 percent said they should have to be older. There was a similar divide on whether teachers should be able to retire and draw pensions before they are 65.

The nationwide telephone poll was conducted Feb. 24-27 with 984 adults and has a margin of sampling error of plus or minus three percentage points for all adults. Of those surveyed, 20 percent said there was a union member in their household, and 25 percent said there was a public employee in their household.

Tax increases were not as unpopular among those surveyed as they are among many governors, who have vowed to avoid them. Asked how they would choose to reduce their state's deficits, those polled preferred tax increases over benefit cuts for state workers by nearly two to one. Given a list of options to reduce the deficit, 40 percent said they would increase taxes, 22 percent chose decreasing the benefits of public employees, 20 percent said they would cut financing for roads and 3 percent said they would cut financing for education.

The most contentious issue to emerge in the recent labor battles has been the question of collective bargaining rights. A proposal by Gov. Scott Walker of Wisconsin to weaken them sent Democratic state lawmakers out of state to prevent a vote, flooded the Capitol in Madison with thousands of protesters and sparked a national discussion about unions.

The poll found that an overwhelming 71 percent of Democrats opposed weakening collective bargaining rights. But there was also strong opposition from independents: 62 percent of them said they opposed taking bargaining rights away from public employee unions.

Phil Merritt, 67, a retired property manager from Crossville, Tenn., who identifies himself as an independent, explained in a follow-up interview why he opposed weakening bargaining rights for public workers. "I just feel they do a job that needs to be done, and in our country today if you work hard, then you should be able to have a home, be able to save for retirement and you should be able to send your kids to college," he said. "Most public employees have to struggle to do those things, and generally both spouses must work."

The one group that favors weakening those rights, by a slim majority, was Republicans. Warren Lemma, 56, an electrical contractor from Longview, Tex., said states did not have the money to pay for many benefits that state workers enjoy.

"Retirement benefits should not be taken away from those about to retire, but the system should be changed for the people starting to teach just now," said Mr. Lemma, a Republican. "And the only way the system will change is to do something about unions and their control, and the only way to do that is to take away collective bargaining."

The poll found that 45 percent of those surveyed said they believed that governors and state lawmakers who are trying to reduce the pay or benefits of public workers were doing so to reduce budget deficits, while 41 percent said they thought they were doing so to weaken unions' power.

Although cutting the pay or benefits of public workers was opposed by people in all income groups, it had the most support from people earning over $100,000 a year. In that income group, 45 percent said they favored cutting pay or benefits, while 49 percent opposed it. In every other income group, a majority opposed cutting pay or benefits: Among those making between $15,000 and $30,000, for instance, 35 percent said they favored cutting pay or benefits, while 60 percent opposed it.

Labor unions, including private sector labor unions, are seen as less influential now than they were three decades ago. The poll found that 37 percent of those surveyed believe that labor unions have "too much influence" on American life and politics, while 48 percent said they had the "right amount" or "too little" influence. In a 1981 poll, by contrast — soon after President Ronald Reagan fired striking air traffic controllers — 60 percent of those surveyed said unions had "too much influence." Of course, union membership has declined since then.

Marina Stefan contributed reporting.

The Showdown Over Public Union Power

The Wall Street Journal, 22 Februrary 2011, By Steven Malanga

Government workers have taken to the streets in Madison, Wis., to battle a series of reforms proposed by Gov. Scott Walker that include allowing workers to opt out of paying dues to unions. Everywhere that this "opt out" idea has been proposed, unions have battled it vigorously because the money they collect from dues is at the heart of their power.

Unions use that money not only to run their daily operations but to wage political campaigns in state capitals and city halls. Indeed, public-sector unions especially have become the nation's most aggressive advocates for higher taxes and spending. They sponsor tax-raising ballot initiatives and pay for advertising and lobbying campaigns to pressure politicians into voting for them. And they mount multimillion dollar campaigns to defeat efforts by governors and taxpayer groups to roll back taxes.

Early last year, for example, Oregon's unions spearheaded a successful battle to pass ballot measures 66 and 67, which collectively raised business and income taxes in the state by an estimated $727 million annually. Led by $2 million from the Oregon Education Association and $1.8 million from the Service Employees International Union (SEIU), unions contributed an estimated 75% of the nearly $7 million raised to promote the tax increases, according to the National Institute on Money in State Politics.

Also in 2010, teachers unions and public-safety unions in Arizona were influential players in the successful ballot campaign to increase the state's sales tax to 6.6% from 5.6% to raise an additional $1 billion. Some state business groups also supported the tax increase in the vain hope that the legislature would roll back business and investment taxes. The public unions, by contrast, wanted the tax hike precisely to avoid government spending cuts.

In Washington state there was a ballot measure last November that would have raised $2 billion by imposing an income tax on those earning more than $200,000. The media portrayed the political fight as a battle among the rich. That's because William H. Gates Sr, father of Microsoft founder Bill Gates, supported the tax, while Microsoft's current chief executive, Steve Ballmer and Amazon.com founder Jeff Bezos opposed it.

But unions were the real power behind the scenes. According to Ballotpedia.com, state and national SEIU locals gave $2.5 million, while the National Education Association and Washington teachers union locals contributed $900,000 to the $6 million campaign for the new income tax. In the end, Washingtonians voted down the tax, in part because they feared it would eventually be expanded to everyone.

This was not the first time that government unions targeted upper-income earners. In 2004, California labor groups -- including the California Teachers Association, the SEIU, and health interests such as the California Council of Community Health Agencies -- led a successful $4.7 million campaign to raise the state income tax on those making more than $1 million and devote the money to health-care funding. In all, public unions gave $1 million to the Proposition 63 effort, while public health groups donated another $1.3 million, according to HealthVote.org.

In New York in 2008-09, then-Gov. David Paterson balked at tax increases and proposed budget cuts in an attempt to come to grips with the state's growing fiscal crisis. In response, unions launched a barrage of attack ads. The New York State United Teachers union spent $750,000 advocating against a cap on property taxes. The state's health-care unions (and hospitals) mounted a $1 million radio campaign against Medicaid cuts. In the end, the legislature raised a host of taxes, including higher levies on the incomes of those earning more than $200,000.

Across the Hudson, New Jersey's powerful teachers union has led the fight against Gov. Chris Christie's efforts to cut spending. The New Jersey Education Association collects about $100 million a year in dues from its 203,000 members; last spring the union spent $300,000 a week, according to the head of the union, for radio ads urging tax increases on the rich instead of budget cuts. But Mr. Christie held firm and his budget was passed largely as he proposed it.

Public unions are also among the biggest players in national politics. According to the Center for Responsive Politics, the American Federation of State, County and Municipal Employees (Afscme) has been the third-biggest contributor to federal campaigns over the past 20 years, having given $43 million. The National Education Association is number eight with $31 million in contributions, while the SEIU -- half of whose 2.2 million members are government workers -- is No. 10, with $29 million in campaign donations.

Unlike businesses and industry groups that are also big givers but tend to split their donations between the parties, some 95% of government workers' donations has gone to the Democratic Party, whose members are far more likely to favor raising taxes and boosting spending than are members of the Republican Party.

The union strategy is finally beginning to encounter pushback. Last year, supporters of Gov. Christie, anticipating a union onslaught, set up a group called Reform Jersey Now to back the newly elected governor with a public relations campaign in his first budget battle. The group spent about $624,000, with contributions from business PACs, including those representing the state's construction industry, and from money donated by the Republican Governors Association.

And in New York, Democratic Gov. Andrew Cuomo has urged business groups to counter union efforts to defeat his budget, which cuts spending by $3.7 billion. In response, a group that calls itself the Committee to Save New York, financed by business groups and executives, has launched a $10 million advertising campaign in support of Gov. Cuomo's planned spending cuts for Medicaid and education, as well as his efforts to cut the cost of state workers' pensions.

If Gov. Walker succeeds in Wisconsin, it's likely that other reformers will follow his lead and explore ways to restrict public-sector unions' use of members' dues. Tax advocates in California, for instance, have proposed an initiative that would require a government union to gain the approval of individual members in order to divert dues into political campaigns. Such measures would give opponents around the country a new playbook to follow in countering the rich resources and deep influence of public unions over taxes and spending.

Mr. Malanga is a senior fellow at the Manhattan Institute and the author of "Shakedown: The Continuing Conspiracy Against the American Taxpayer" (Ivan R. Dee, 2010).

Plutocracy Now: What Wisconsin Is Really About

How screwing unions screws the entire middle class.

Mother Jones, By Kevin Drum | March/April 2011 Issue

IN 2008, A LIBERAL Democrat was elected president. Landslide votes gave Democrats huge congressional majorities. Eight years of war and scandal and George W. Bush had stigmatized the Republican Party almost beyond redemption. A global financial crisis had discredited the disciples of free-market fundamentalism, and Americans were ready for serious change.

Or so it seemed. But two years later, Wall Street is back to earning record profits [3], and conservatives are triumphant [4]. To understand why this happened, it's not enough to examine polls and tea parties and the makeup of Barack Obama's economic team [5]. You have to understand how we fell so short, and what we rightfully should have expected from Obama's election. And you have to understand two crucial things about American politics.

The first is this: Income inequality has grown dramatically [6] since the mid-'70s—far more in the US [7] than in most advanced countries—and the gap is only partly related to college grads outperforming high-school grads. Rather, the bulk of our growing inequality has been a product of skyrocketing incomes among the richest 1 percent and—even more dramatically—among the top 0.1 percent. It has, in other words, been CEOs and Wall Street traders at the very tippy-top who are hoovering up vast sums of money from *everyone*, even those who by ordinary standards are pretty well off.

…

Union leaders like John L. Lewis [11], George Meany [12], and Walter Reuther [13] were routine sources for reporters from the '30s through the '70s. And why not? They made news. The contracts they signed were templates for entire industries. They had the power to bring commerce to a halt. They raised living standards for millions, they made and broke presidents, and they formed the backbone of one of America's two great political parties.

They did far more than that, though. As historian Kim Phillips-Fein puts it, "The strength of unions in postwar America had a profound impact on all people who worked for a living, *even those who did not belong to a union themselves*." (Emphasis mine.) Wages went up, even at nonunion companies. Health benefits expanded, private pensions rose, and vacations became more common. It was unions that made the American economy work for the middle class, and it was their later decline that turned the economy upside-down and made it into a playground for the business and financial classes.

Technically, American labor began its ebb in the early '50s. But as late as 1970, private-sector union density was still more than 25 percent [14], and the absolute number of union members was at its highest point in history. American unions had plenty of problems, ranging from unremitting hostility in the South to unimaginative leadership almost everywhere else, but it wasn't until the rise of the New Left [15] in the '60s that these problems began to metastasize.

The problems were political, not economic. Organized labor requires government support to thrive—things like the right to organize workplaces, rules that prevent retaliation against union leaders, and requirements that management negotiate in good faith—and in America, that support traditionally came from the Democratic Party. The relationship was symbiotic: Unions provided money and ground game campaign organization, and in return Democrats supported economic policies like minimum-wage laws and expanded health care that helped not just union members per se—since they'd already won good wages and benefits at the bargaining table—but the interests of the working and middle classes writ large.

The Bankrupting of America

The Wall Street Journal, 21 May 2010, By Mortimer Zuckerman

The American public feels it is drowning in red ink. It is dismayed and even outraged at the burgeoning national deficits, unbalanced state and local budgets, and accounting that often masks the extent of indebtedness. There is a mounting sense that taxpayers are being taken for an expensive ride by public-sector unions. The extraordinary benefits the unions have secured for their members are going to be harder and harder to pay.

The political backlash has energized the tea party activists, put incumbents at risk in both parties, and already elected fiscal conservatives such as Republican Gov. Chris Christie of New Jersey. Over the next fiscal year, the states are looking at deficits approaching hundreds of billions of dollars. The Center on Budget and Policy Priorities, a liberal think tank, estimates that this coming year alone states will face an aggregate shortfall of $180 billion. In some states the budget gap is more than 30%.

How did we get into such a mess? States have always had to cope with volatility in the size and composition of their populations. Now we have shrinking tax bases caused by recession and extra costs imposed on states to pay for Medicaid in the federal health-care program. The straw (well, more like an iron beam) that breaks the camel's back is the unfunded portions of state pension plans, health care and other retirement benefits promised to public-sector employees. And federal government assistance to states is falling -- down by roughly half in the next fiscal year beginning Oct. 1.

It is galling for private-sector workers to see so many public-sector workers thriving because of the power their unions exercise. Take California. Investigative journalist Steve Malanga points out in the City Journal that California's schoolteachers are the nation's highest paid; its prison guards can make six-figure salaries; many state workers retire at 55 with pensions that are higher than the base pay they got most of their working lives.

All this when California endures an unemployment rate steeper than the nation's. It will get worse. There's an exodus of firms that want to escape California's high taxes, stifling regulations, and recurring budget crises. When Cisco CEO John Chambers says he will not build any more facilities in California you know the state is in trouble.

The business community and a growing portion of the public now understand the dynamics that discriminate against the private sector. Public unions organize voting campaigns for politicians who, on election, repay their benefactors by approving salaries and benefits for the public sector, irrespective of whether they are sustainable. And what is happening in California is happening in slower motion in the rest of the country. It's no doubt one of the reasons the Pew Research Center this year reported that support for labor unions generally has plummeted "amid growing public skepticism about unions' power and purpose."

In New York, public-service employees have received gold-plated perks for much of the 20th century, especially generous health-insurance benefits. Indeed, where once salaries were lower in the public sector, the salary gaps in the public and private sectors have disappeared or even reversed.

A Citizens Budget Commission report in 2005 showed that for most job categories in the greater New York City region, public-sector workers received higher hourly wages than private-sector workers. And according to a 2009 survey by the same group, this doesn't even count the money that New York City pays in full premiums for comprehensive health-insurance policies for workers and their families. Only 8% of workers in private firms enjoy that subsidy. In virtually all cases, the city also pays the full health-care premium costs for retirees and their spouses. And city pensions are "defined benefit" plans, which are more expensive since they guarantee specific benefits on retirement.

By contrast, private-sector workers in the survey were mostly in "defined contribution" plans, which means that, unlike their cushioned brethren in the public sector, they do not have a predetermined benefit at retirement. If New York City were to require its current workers to pay contributions toward health insurance equal to the amounts paid by the employees of local private-sector firms, the taxpayer savings would be $628 million a year. In New Jersey, Gov. Christie says government employee health benefits are 41% more expensive than those of the average Fortune 500 company.

What we suffer is a ruinously expensive collaboration between elected officials and unionized state and local workers, purchased with taxpayer money. "Scratch my back and I'll scratch yours."

No wonder the Service Employees International Union has become the nation's fastest-growing union: It represents government and health-care workers. Half of its 700,000 California members are government employees. More and more, it wins not on the picket line but at the negotiating table, where it backs up traditional strong-arming with political power. It spends vast amounts of money on initiatives that keep the government growing and the gravy flowing.

The state's teachers unions operate in a similar fashion -- with the result that California's various municipalities, especially Los Angeles, face budget shortfalls in the hundreds of millions of dollars. California can no longer rely on a strong economy to support this munificence. Its unemployment rate of 12.5% runs several points higher than the national rate and its high-tech companies are choosing to expand elsewhere. Why stay in a state with such higher taxes and a cumbersome regulatory environment?

California is a horrible warning of how dreams can turn to dust. In most states, politicians face a contracting local economy and shortfalls in tax receipts. Naturally, they look to cut expenses but run into obstruction from politically powerful unions that represent state and local government employees, teachers and health-care workers who have themselves caused pension and health-care insurance costs to soar. It is not an accident that in framing the national stimulus program in 2009 Congress directed a stunning $275 billion of the $787 billion as grants to the states to support public-service employees in health care, education, etc.

The lopsided subsidies for pension and health costs are a large part of the fiscal crises at the state and local levels. The subsequent squeeze on education and infrastructure investment is undermining the very programs that have made it possible for our economy to grow.

Between New York and California, the projected deficits run about $40 billion -- and that doesn't account for projected billions of dollars in the operating deficits in the states' mass transit systems or the multibillion-dollar unfunded liability in many of the state pension plans. New York would be badly hit because it is on the verge of being deprived of tax revenues by Washington's increased regulations on the financial industry, especially the hugely profitable, multitrillion-dollar market in derivatives -- an industry that is critical to the economy of New York state and the country.

City government was developed to serve its citizens. Today the citizenry is working in large part to serve the government. It is always hard to shrink government spending. It is particularly difficult when public-sector unions have such a unique lever of pressure.

We have to escape this cycle or it will crush us. One way is to take labor negotiations out of the hands of vulnerable legislators and assign them to independent commissions. They would have a better shot at achieving a fair balance between appropriate salary increases and the revenues and services of local municipalities. The electorate won't swallow any more red ink.

Mr. Zuckerman is chairman and editor in chief of U.S. News & World Report.

Union Power for Thee, But Not for Me

The Wall Street Journal, 25 February 2011, Potomac Watch, By Kimberley A. Strassel

The union horde is spreading, from Madison to Indianapolis to a state capital near you. And yet the Democratic and union bigwigs engineering the outrage haven't directed their angry multitudes at what is arguably the most "hostile workplace" in the nation: Washington, D.C.

It will no doubt surprise you to learn that President Obama, the great patron of the working man, also happens to be the great CEO of one of the least union-friendly shop floors in the nation.

This is, after all, the president who has berated Wisconsin Gov. Scott Walker's proposal to limit the collective bargaining rights of public employees, calling the very idea an "assault on unions." This is also the president who has sicced his political arm, Organizing for America, on Madison, allowing the group to fill buses and plan rallies. Ah, but it's easy to throw rocks when you live in a stone (White) house.

Fact: President Obama is the boss of a civil work force that numbers up to two million (excluding postal workers and uniformed military). Fact: Those federal workers cannot bargain for wages or benefits. Fact: Washington, D.C. is, in the purest sense, a "right to work zone." Federal employees are not compelled to join a union, nor to pay union dues. Fact: Neither Mr. Obama, nor the prior Democratic majority, ever acted to give their union chums a better federal deal.

Scott Walker, eat your heart out.

For this enormous flexibility in managing his work force, Mr. Obama can thank his own party. In 1978, Democratic President Jimmy Carter, backed by a Democratic Congress, passed the Civil Service Reform Act. Washington had already established its General Schedule (GS) classification and pay system for workers. The 1978 bill went further, focused as it was on worker accountability and performance. It severely proscribed the issues over which employees could bargain, as well as prohibited compulsory union support.

Democrats weren't then (and aren't now) about to let their federal employees dictate pay. The GS system, as well as the president and Congress, sees to that. Nor were they about to let workers touch health-care or retirement plans. Unions are instead limited to bargaining over personnel employment practices such as whether employees are allowed to wear beards, or whether the government must pay to clean uniforms. These demands matter, though they are hardly the sort to break the federal bank.

Which is precisely the point. Washington politicians may not know much, but they know power -- in particular, the art of keeping it. Even Carter Democrats understood the difference between being in electoral debt to the unions, and being outright owned by them. And as Gov. Walker will attest, allowing unions to collectively bargain over pay and benefits is allowing them the keys to the statehouse.

Innocent Americans assume that unions use collective bargaining solely to obtain better pay and benefits. Not exactly. The real game is to insist that the dough runs through the union -- giving it power over the state.

In Wisconsin, for instance, the teachers union doesn't just bargain for more health dollars. It also bargains to require that local school districts buy health insurance for their teachers through the union-affiliated health-insurance plan, called WEA Trust. That requirement gives the union (not the state) ultimate say over health benefits. It also costs the state at least $68 million more annually than it would if schools could buy the state-employee health plan -- money that goes to a union outfit.

Since Washington pols aren't about to let unions run their town, the result is a weird bifurcation. On the state level, union campaign dollars are primarily contingent upon Democrats agreeing to allow public-employee unions to milk taxpayers dry. On the federal level, union dollars are primarily contingent upon Democrats agreeing to pervert federal laws and institutions so that private-sector unions get special privileges over employers and nonunion companies -- consider project-labor agreements, Davis-Bacon and card check.

All of this helps explain why Mr. Obama has gone quiet on Wisconsin, and why Organizing for America is scurrying to hide its involvement. The president's initial instinct was to jump into the state, a 2012 battleground area where he might build points with his liberal base.

The White House has since sensed danger. As the world is painfully aware, Mr. Obama is under no obligation to balance his budget. So to whack Gov. Walker for his efforts to do so might strike some Americans as irresponsible, especially as the president is working to convince them that he really does care about deficits.

The other risk: The spotlight turns back to D.C. If the president is so worried about Wisconsin's "assault," why has he never taken up federal bargaining rights? If the Badger State's current system is the gold standard, why has he not replicated it? If it is so important that all parties "sit at the table" -- as White House Press Secretary Jay Carney recently lectured Wisconsin -- how dare Mr. Obama unilaterally declare a federal pay freeze? (Honestly, the union-busting gall!)

The debate over public-union giveaways has only started. That debate would benefit were Mr. Obama to explain how it is that Wisconsin is wrong to ask for the same budget flexibility that he enjoys as president. If he's unable to do that, perhaps the debate ought to be over.

One at a Time, Please

How can Wisconsin stop employees from bargaining collectively?

Slate Explainer, By Brian Palmer, Posted Monday, Feb. 28, 2011, at 6:00 PM ET

Wisconsin Gov. Scott Walker defended his proposal to strip public employees of certain collective bargaining rights on the Sunday morning talk shows this week. But, practically speaking, how can the state stop workers from bargaining as a unit?

By refusing to talk to their leaders. The 1935 National Labor Relations Act gave private sector workers the right to form unions, obligated employers to negotiate with union representatives in good faith, and prohibited discrimination against workers on the basis of their union membership. But there is no corresponding, nationwide mandate for public workers, meaning state-employee rights vary across the country. In some states—Georgia, North Carolina, South Carolina, Texas, and Virginia—officials are actually prohibited from negotiating with most union representatives. If a spokesman for, say, the Service Employees International Union calls up North Carolina Gov. Bev Perdue and asks for a chat about across-the-board raises, Perdue isn't allowed to haggle with him. Additionally, most state employees lack the right to strike—a crucial piece of leverage in the collective bargaining process. Even if a rogue state administrator were to reach an agreement with union representatives, the contract might not be valid. In 1977, the Virginia Supreme Court voided (PDF) contracts that teachers unions signed with local school district officials.

If Wisconsin state workers lose their right to collectively bargain for employment benefits, they'll have little recourse. Federal courts have consistently held that the First Amendment rights to assemble and petition the government for redress of grievances do not include collective bargaining over employment conditions. (Some other countries' constitutions include the freedom of association, rather than assembly, which often does encompass the right to bargain collectively.)

Theoretically, employees don't need a formal legal right to bargain collectively. American workers started forming unions in the mid-19th century, without any legal recognition. While employers at the time refused to speak with union representatives, the leaders often got what they wanted through economic pressure. The unions held strikes, walkouts, and work slowdowns. They launched boycotts of their employer's products, applied political pressure, and sometimes resorted to violence and destruction of property.

Modern day public sector unions also sometimes work outside the law. Teachers unions, in particular, have held strikes in cities around the country, despite laws prohibiting them from doing so. They know that, except in the most extreme circumstances, the state can't replace hundreds, or even thousands, of teachers on short notice, and a strike can give them significant leverage in negotiations.

But extra-legal labor strikes raise risks as well. Furious state officials often seek judicial injunctions forcing the strikers back to work. When the employees don't comply, the judge can hold them in contempt of court. Fines, or even jail time, are possible repercussions.

Some government officials are open to mass firings, despite the logistical challenges. In 1981, President Ronald Reagan fired more than 11,000 air traffic controllers who were holding an illegal strike. Reagan cobbled together a team of non-union supervisors and military air traffic controllers to plug the hole. While 7,000 flights were cancelled, there were no accidents. (Earlier this month, the TSA granted air traffic controllers the right to bargain collectively.)

Got a question about today's news? Ask the Explainer.

Explainer thanks Charles Craver of George Washington University Law School, Thomas C. Kohler of Boston College Law School, and Charlie Wilson of the Ohio State University Moritz College of Law

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