

September 29, 2015

No. 209

## How Government Unions Undermine Upward Mobility And What Can Be Done about It

By Carrie Sheffield\*

A common claim made by government employee unions and their supporters is that they stand up for the little guy. Cue Aaron Copeland's "Fanfare for the Common Man." But the reality is more complex. Public sector unions are increasingly becoming bastions of white-collar, skilled workers, counter to the mythology of a blue-collar everyman. Government unions are major campaign donors. And elected officials who rely on unions to remain in office in exchange for expanding benefit packages that are driving cities like Detroit and Stockton, California, and states like Illinois and New Jersey to the brink of fiscal insolvency.

Government employee unions create a more expensive and protected class of workers at the expense of nonunion workers, students, and taxpayers. They engage in politics to expand and protect the perks of government employees who are more likely to have attended college and garner salary and benefit packages more generous than the average private sector worker.

This paper examines how government employee unions divide American workers into two distinct classes: 1) those who earn a living in the private market and 2) those who work for the government and enjoy higher wages and benefits and ironclad job protections. This hurts both the direct victims of the public sector union inequality and taxpayers more broadly. Collective bargaining agreements also enable government unions to gain outside pay and benefits, and hurt taxpayers, who end up paying more for public services. In the historical context of the 50-year War on Poverty, government unions have not been champions of the neediest in society.

**History and Context of Public Sector Unions.** In Madison, Wisconsin's state capital, the Republican-controlled legislature tried to hold a vote in February 2011 on Act 10, a measure seeking to rein in the scope of collective bargaining between government employee unions and state and local government agencies. Rather than allow a vote, a group of Democratic state senators fled the state to neighboring Illinois, seeking to force Republicans to negotiate further over the proposal. (Indiana Democrats successfully employed a similar tactic in 2012, fleeing the state to avoid a vote on a union reform measure, and were able to force concessions.<sup>1</sup>) In the heat of the political drama, as many as 100,000 pro-union protesters swarmed the state capitol, furious at Governor Scott Walker and Republican legislators for seeking to enact the reforms that would later save the state an estimated \$3 billion over three years.<sup>2</sup>

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One likely reason for the Democrats' and their union allies' anger was the symbolism of Wisconsin, where government unionism as we know it first began. Given Republican control of both chambers of the legislature and the governorship, eventual passage of Act 10 was practically assured from the outset. Yet, Democratic lawmakers' fleeing the state enabled them to delay its passage and earn some goodwill among their union supporters.

The scenes that played out in Madison in 2011 would have seemed strange to a union organizer from the 1930s, when unionization was strictly a private sector phenomenon. The National Labor Relations Act (NLRA) of 1935, also known as the Wagner Act, after its sponsor, New York Senator Robert F. Wagner, gave private sector unions the power to act as the exclusive bargaining representative for all workers at a given workplace. The Act declared federal and state and local governments were not employers under such terms engaged in commerce.<sup>3</sup>

That began to change in the late 1950s and 1960s. In 1958, New York Mayor Robert Wagner, Jr. issued an executive order that became known as the "little Wagner Act," which gave city employees certain bargaining rights, and provided union leaders with exclusive authorization to speak for all employees, regardless of whether they joined a union or not.<sup>4</sup> The American Federation of State, County, and Municipal Employees (AFSCME) fought at the state level for public sector unionization, succeeding in Wisconsin in 1959.<sup>5</sup>

By the 1960s and 1970s public-sector unions expanded rapidly to cover teachers, clerks, firefighters, police officers, prison guards, and others.<sup>6</sup> In 1962, President John F. Kennedy issued Executive Order 10988, upgrading the status of unions of federal workers. His order did not permit federal employees to bargain over wages (which are set by Congress) or force workers to join a union or to strike, but Kennedy's directive did lead to unionization of the federal workforce. And it spurred the enactment of state and local laws allowing unionization of public employees. That enabled government union membership to rise tenfold in the 1960s. In the late 1960s and 1970s, federal and state union-promoting laws resulted in unprecedented strikes by teachers, garbage collectors, postal workers, and others, even though every state prohibited strikes by public employees.

**Government Unions vs. Public Services.** In his recent book, *Government against Itself: Public Union Power and Its Consequences*, City College of New York-CUNY and Manhattan Institute Senior Fellow Daniel DiSalvo documents the government inefficiencies and conflicts of interest inherent in public sector unionization, which comes at the expense of workforce accountability and fiscal restraint.<sup>7</sup> Central to this conflict is the role of collective bargaining—negotiations between government union leaders and elected officials or career bureaucrats.

Government unions use this process as a tool to increase their power and compensation for their members at the expense of the taxpaying public. Government unions make campaign contributions to the very politicians whose staff sits on the other side of the bargaining table, which gives them significant leverage. And politicians can pay back the unions with higher wages funded by taxpayers. This creates an upward ratchet effect that makes government

employee compensation point upward, not because of market pressures, but because of political dynamics.<sup>8</sup>

DiSalvo focuses on government unions at the state and local level, since the scope of collective bargaining in the federal government is much more limited. And it is at the state and local level that union power is most pronounced.

One of unions' most powerful tools in collective bargaining is the threat of strikes, which can cripple government services ranging from garbage collection to transportation to schools. As DiSalvo points out, old-school liberals like New York Mayor Fiorello LaGuardia and AFL-CIO President George Meany opposed public sector unions, even as they strongly supported unionization in the private sector. "As a matter of duty, public services, they argued, must not be imperiled by strikes," notes DiSalvo. "It also seemed natural to maintain that the people (i.e., the government) cannot strike against *the people*."<sup>9</sup>

That sentiment was shared by President Franklin Delano Roosevelt, the famously liberal president who ushered in massive government expansion. "Meticulous attention should be paid to the special relations and obligations of public servants to the public itself and to the Government," he cautioned. "The process of collective bargaining, as usually understood, cannot be transplanted into the public service."<sup>10</sup>

For that reason, only two states allow strikes among police and firefighters, to ensure public safety, while 12 states allow strikes among teachers. While most states allow collective bargaining and wage negotiations among public sector workers, the opposite is the case is true for the right to strike.<sup>11</sup> Despite some bans on strikes, throughout history there have been cases of illegal strikes by government unions, particularly transit workers.<sup>12</sup>

Collective bargaining effectively takes a degree of decision making power regarding public policy away from elected officials and puts it in the hands of unelected bureaucrats. The late Wake Forest University professor Sylvester J. Petro was one of the first scholars to comprehensively outline this phenomenon. As he noted, if a labor organization can negotiate with the government, then that organization essentially acts as a co-sovereign with the government, if that union can withhold services needed for the functioning of government. Not only does this undermine democracy, he argued, but unionization of government workers could not be justified under the Wagner Act—which sought to facilitate the free flow of commerce pursuant to the Constitution's Commerce Clause of Article 1, Section 8—because "the function they perform is *government*, not commerce."<sup>13</sup>

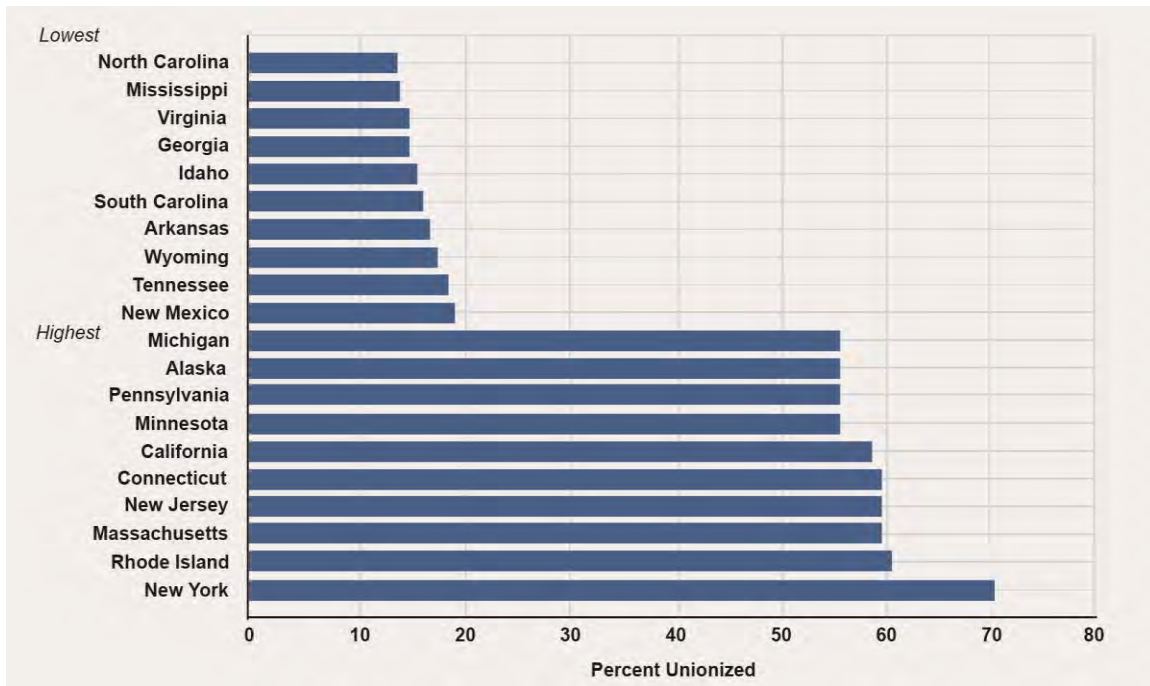
Binding arbitration, which many public safety employee unions include in their contracts to make up for their inability to strike legally, often forces elected officials to cede control to an unelected administrator not directly accountable to taxpayers. Under binding arbitration, an arbitrator steps in when "management" (in this case a state, city, or county) and a union cannot agree on a contract. In such a scenario the union is almost certain to come out ahead, because the arbitrator will not offer anything less than "management's" last offer, which in effect becomes a floor for what the union may get. That may not be ideal from the unions' perspective, but the union still ends up in a better position than the status quo ante.

A Democratic president like FDR had good reason to be wary of unions in government. As the costs of paying salaries and benefits for government workers balloons, this means that without further taxation or public borrowing there is less money in state and local government budgets available to spend on public services like police and fire protection, road maintenance, public safety, and other priorities. For example, New York City now pays out more for retired than active police officers each year.<sup>14</sup>

More broadly, states where citizens complain the loudest that their taxes are too high correlate almost perfectly with the states where public employee unions are strongest.<sup>15</sup> That union strength in turn leads to government growth.

The potential for that growth is virtually limitless. While political pressures impose a limit on how much government can extract from taxpayers, that check on government predation is largely focused in the present time. Pensions, by contrast, allow politicians to pay off their government union allies with promises of future compensation collected from future taxes. The situation is even worse than one of concentrated benefits and diffuse costs. Under public pension, taxpayers subsidize concentrated benefits and diffuse and *deferred* costs. This is troubling when considering current American demographics, which project continued shrinking labor force participation rates and worker-to-retiree ratios. This amounts to what Nobel laureate economist James M. Buchanan describes as “Taxation without representation” upon future generations.<sup>16</sup>

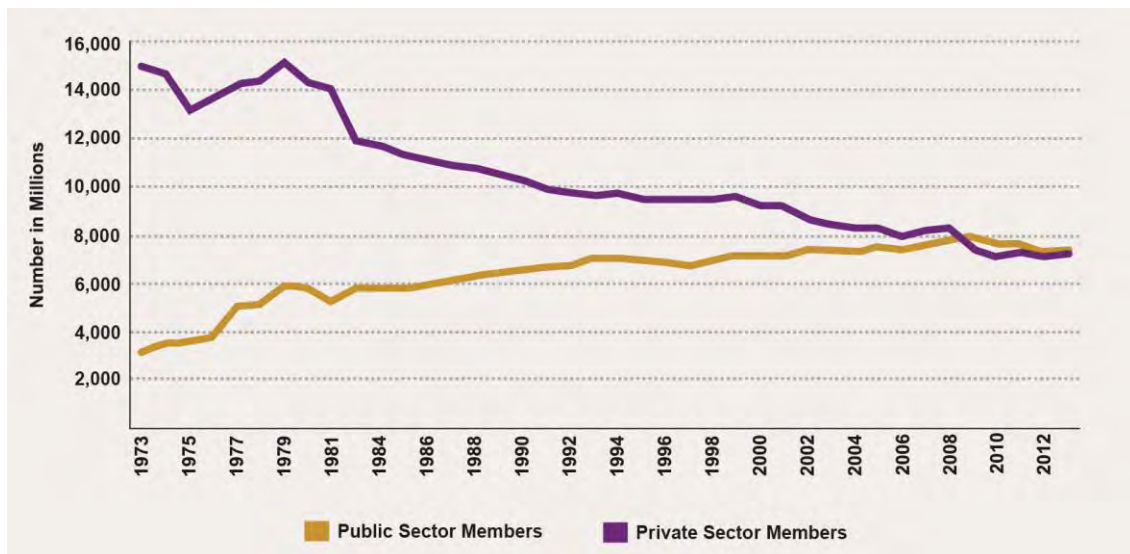
**Figure 1. Public Sector Unionization Rate by State, 2012**



Source: CPS, Unionstats.com, Barry T. Hirsch and David Macpherson

**Union Membership Shifts from Business to Government.** The year 2009 was the first time that unionized government employees (7.9 million) outnumbered private sector union members (7.4 million). Those figures have remained roughly even since then—even though there are five times as many workers in the private as in the public sector.<sup>17</sup> Today, government employment accounts for more than 20.3 million jobs—some 17 percent of total U.S. employment.<sup>18</sup> This shift has incentivized unions to become more directly involved in politics and more radical in their demands, since government unions depend on the growth of government for gaining new members—and unlike private employers, the government cannot go out of business (though Greece’s recent troubles provide a cautionary tale on the perils of relying excessively on government employment).

**Figure 2. Organized Labor’s Changing Membership**



Source: CPS, Unionstats.com, Barry T. Hirsch and David Macpherson

Today’s public sector workers are generally materially better off and have higher levels of formal educating than private sector union members of years past.

- In 1952, about 80 percent of union members were blue-collar workers, while 20 percent were white-collar, according to data from the University of Michigan’s American National Election Study.<sup>19</sup> By the mid-1990s, white-collar workers accounted for a majority of union members.
- In 1960, more than 35 percent of union members had not finished high school and only 2 percent had college degrees. On average in 2013, public sector employees had more years of education than private sector workers, according to the nonpartisan Congressional Research Service.<sup>20</sup> In 2013, 53.6 percent of workers in the public sector had a bachelor’s, advanced, or professional degree, compared to 34.9 percent of private sector workers.
- A larger share of public sector than private sector workers are employed in “management, professional, and related occupations.” In 2013, 56.2 percent of

public sector workers and 37.8 percent of private sector workers were employed in these occupations.

- The typical union member no longer lives in a major city center close to the factory; by the 1990s, union members were more likely to live in suburban than urban areas. According to political scientists Jan Leighley and Jonathan Nagler, as the percentage of public sector union members increased between 1971 and 2004, the fraction of union members in the top third of the nation's income distribution increased by 24 percent, while the proportion of unionists in the bottom third of the distribution declined by 45 percent.<sup>21</sup> This is because better-educated and more affluent workers are more likely to belong to public rather than private sector unions.

**Reform Is Possible.** DiSalvo, F. Vincent Vernuccio of the Michigan-based Mackinac Center for Public Policy, and other observers offer an array of recommendations for reform.<sup>22</sup> Ideas for reform include limiting the variables allowed under collective bargaining—a reform consistent with FDR's thinking. Pensions, health care benefits, and raises should be removed from the negotiating table, to be determined by elected officials rather than union bosses. And a more neutral measure, such as indexing for inflation, would be a wiser baseline for raises rather than self-interested muscle flexing by unions.

Other reforms include increasing the retirement age for receiving public sector benefits (many government workers are allowed to retire in their 40s and 50s) since government workers retire at a faster rate than private sector workers. By 2030, the number of retired public workers will equal the number of people employed by state and local government.

Finally, government-collected union dues should be used exclusively for collective bargaining, not politics. This last issue is at the center of a case the U.S. Supreme Court will soon consider, *Friedrichs v. California Teachers Association*, discussed below.

**Real Savings for Taxpayers.** In Wisconsin, a state that has not voted for a Republican presidential candidate since 1984, voters elected GOP Governor Scott Walker in the 2010 election cycle, as part of the "Tea Party" wave that elected Republicans across the nation who ran on pledging to rein in the growth of government. In the Badger State, that meant rolling back policies that allowed government employee unions to contribute nothing to their pensions and very little (relative to the private sector) toward their members' health care costs.

The situation Walker confronted in Wisconsin upon taking office could be considered the logical conclusion of collective bargaining in government. The unions understood what was at stake, and responded in a panic, organizing enormous protests at the state capitol, including with protesters bussed in from other states, some even urinating in offices and threatening the governor and his family. Government union bosses knew they could not win in the legislature, so they tried to intimidate their opponents into backing off proposed reform. They failed, and the reform bill, Act 10, became law.

Act 10 did not eliminate collective bargaining; it simply limited it to wages. Even so, it made a major difference. It enabled the state to turn a projected \$3.6 billion budget deficit

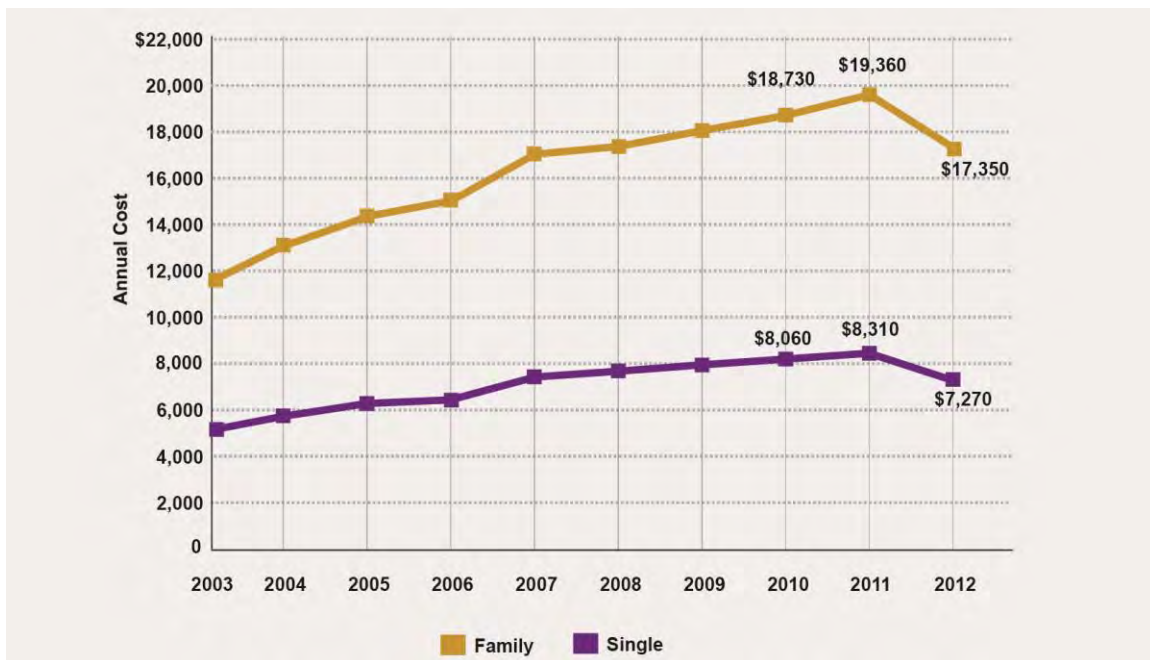


into a more than half-billion dollar surplus.<sup>23</sup> That helped school districts save millions of taxpayer dollars on public employee compensation packages by requiring workers to contribute 5.8 percent of their pay to their pensions and pay 12.6 percent of their health care costs—amounts roughly half of what private sector workers pay.<sup>24</sup>

Wisconsin school districts were able to save money after Act 10 broke the legally mandated monopoly many insurance companies had in many school districts. Wisconsin was the first state in the nation with public-sector collective bargaining and has long had one of the nation’s strongest teachers’ unions. It has also long been a state with very expensive teacher medical insurance. Average district costs in 2011 were \$8,311 and \$19,356 for single and family coverage, respectively. These costs were about 50 percent and 80 percent higher than the 2011 national averages for teachers, which were \$5,500 and \$10,723.<sup>25</sup>

**Figure 3. Bending the Cost Curve**

*In Wisconsin, district costs for medical insurance dropped sharply in 2012, following implementation of Act 10*



*Premiums rounded to nearest then. Chained estimates, 2010 base, weighted by FTEs.*

*Sources: Education Next, Authors’ calculations based on Wisconsin Association of School Boards data*

Prior to passage of Act 10, there was no competitive bidding for teacher healthcare. The state provided health insurance under an exclusive contract with only one provider. Following passage of the Act, school districts were allowed to negotiate pricing.<sup>26</sup> District payments for employees’ medical care increased every year from 2003 to 2011. From 2011 to 2012, following passage of Act 10, average district costs for family coverage fell by an estimated \$2,010, while district costs for single coverage declined by \$1,042 (see Figure 3).

These figures underestimate the district savings attributable to Act 10, since premiums had been rising steadily prior to Act 10 and were expected to continue doing so. When researchers with the University of Arkansas accounted for this expected growth (using

average growth from 2007 to 2011), they estimated savings of \$2,614 for family coverage and \$1,304 for single coverage.<sup>27</sup> These estimates represent declines of 13 to 19 percent from the projected district costs for 2012. In short, the savings from Act 10 helped start a virtuous cycle of future savings for taxpayers that had been undercounted based on real-time measurement. Going back in time to the earlier projections showed further savings following Act 10.

**Reform Can Be Bipartisan.** For most of their history, government employee unions have given campaign contributions almost exclusively to Democratic politicians, who in turn have been loath to upset their powerful union supporters. However, that has begun to change, and in dramatic fashion, because two major problems now besetting many states bears no party label: severely underfunded public employee pensions and chronically underperforming public schools. Those huge pension shortfalls and poor school performance have been driven by policies promoted by government employee unions.

As a result, state and local elected officials are tackling reform head-on, responding both to voter concerns and to fiscal reality. For example, Chicago Mayor Rahm Emanuel and New York Governor Andrew Cuomo, both Democrats, have tangled with teachers unions. Emanuel sought to reform unsustainable compensation packages for teachers and incorporate better accountability at failing schools. While he faced teacher strikes and some negative press for his efforts in 2012, he ultimately won reelection in 2015.<sup>28</sup> Cuomo has faced backlash from teacher unions as well for plans to better quantify teacher performance and implement tenure reforms.<sup>29</sup> Connecticut Governor Daniel Malloy, also a Democrat, has struggled with his state's unions in an effort to balance the state's budget and reduce pension underfunding. Many of his efforts have been unsuccessful, leading to credit rating downgrades under his governorship.<sup>30</sup> Recently, Emanuel asked the Chicago city council to raise property taxes and various city fees, citing the city's dire fiscal situation.<sup>31</sup>

In Rhode Island in 2011, State Treasurer Gina Raimondo faced stiff government union opposition to her leadership in promoting the Rhode Island Retirement Security Act (RIRSA), a bill that reformed the state's heavily underfunded pension system. RIRSA was enacted by the General Assembly with bipartisan support in both chambers and signed into law by former Governor Lincoln Chafee, a former liberal Republican turned independent (since turned Democrat).

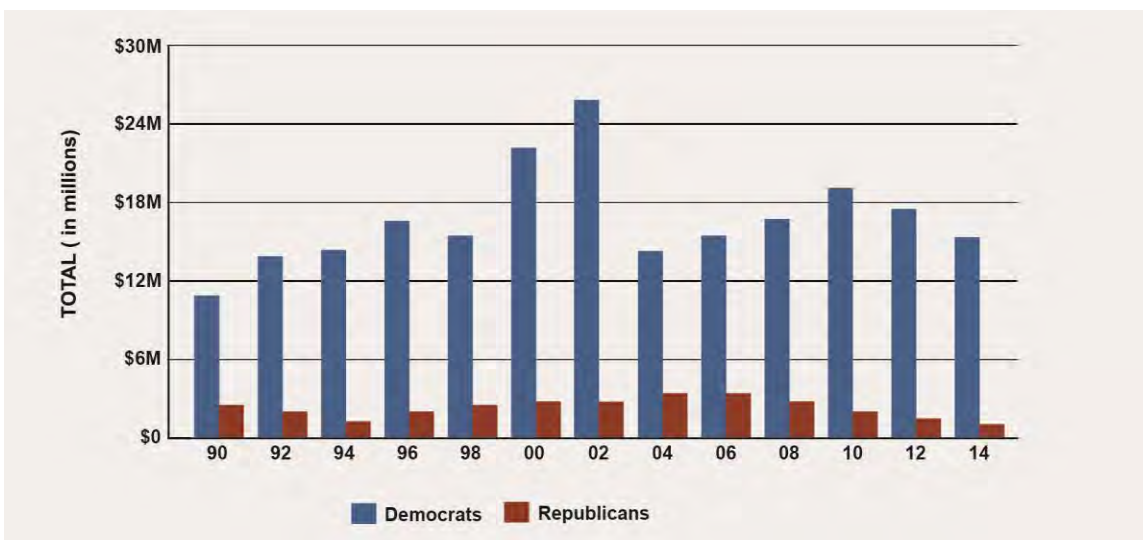
In California, separate ballot measures in San Jose and San Diego also helped control pensions costs.<sup>32</sup> The San Jose measure, which voters passed in 2012 and this year survived a three-year court battle, was supported by former Mayor Chuck Reed, a Democrat.<sup>33</sup> Carl DeMaio, a former city councilman who pushed the San Diego measure approved by voters in 2012, is a Republican. The San Diego Proposition B established a 401(k) plan instead of a defined benefit plan, increased contribution requirements from government workers and eliminated government employees' and retirees' power to vote to change their benefits.<sup>34</sup> Both Reed and DeMaio are now seeking to bring pension reform statewide, filing a California ballot initiative to be voted on next year that would require voter approval for any new pensions or increases to existing pensions for government employees.<sup>35</sup>



**Reform Can Yield Political Benefits.** While the political power of unions is undoubtedly strong, voters have broken some juggernauts to reward union reformers. In Wisconsin in 2012, for example, Scott Walker became the first American governor to survive an electoral recall. The recall election was pushed by union organizers who were furious at Walker’s work with the Republican-held state legislature to rein in union power. Walker also went on to win reelection in 2014. In Michigan, Governor Rick Snyder also won reelection in 2014 after signing a 2012 right to work law in his state.

A Brown University poll conducted in December 2011 found that 60 percent of Rhode Island residents supported the pension reform.<sup>36</sup> In 2014, voters elected Raimondo governor in a three-way race.<sup>37</sup>

**Figure 4. Party Breakdown, Government Union Campaign Donations, 1990-2014**



Source: Center for Responsive Politics

**Reform Should Protect Freedom of Association.** When public sector workers are given the chance to opt out of forcible payments to unions many choose to do so. The percentage of workers belonging to unions in Wisconsin declined from 14.2 percent in 2010 to 11.7 percent in 2014 following the enactment of Walker’s reforms protecting workers from mandatory union membership.<sup>38</sup> In Michigan, the state Supreme Court rejected a union lawsuit and ruled that the state’s right to work law applies to 36,000 government workers. The right to work statute allows workers to decide whether to join a union and thus pay union dues. The United Auto Workers (UAW), which represents 17,000 state workers, brought a lawsuit claimed the law did not apply to its members because the Michigan Civil Service Commission sets their employment terms. The Commission had long held that, while public employees could opt out of the union, they had to pay union fees. The court ruling showed that the Commission had no such constitutional authority “to compel civil service employees to make involuntary financial contributions.” Justice Robert Young wrote for the majority that the commission’s rule amounted to a form of taxation, and the power to tax is held exclusively by the legislature.<sup>39</sup>

Given the right to freedom of association guaranteed by the U.S. Constitution, it is remarkable it has taken so long for mandatory dues or fees to be challenged at the level of the Supreme Court. Some observers noted that the 2014 decision in *Harris v. Quinn* might result in a revisiting of the Court's 1977 decision, *Abood v. Detroit Board of Education*, which upheld a Michigan law, "whereby every employee represented by a union even though not a union member must pay to the union, as a condition of employment, a service fee equal in amount to union dues."<sup>40</sup> Now the U.S. Supreme Court has recently agreed to hear just such a case, *Friedrichs v. California Teachers Association*, which could decide whether *Abood* should be overruled.

The U.S. Supreme Court offered a potential roadmap in overturning *Abood* in the *Harris* case, ruling that a mother who accepted a state subsidy for providing home care to her disabled child could not be forced to join a union. The Court stopped short of ruling on what Justice Samuel Alito called the "full-fledged" public employees who are forced to pay dues under the Supreme Court's decision in *Abood*. Writing for the majority, Alito called the *Abood* ruling "questionable" and "anomalous." He was joined in his opinion by Chief Justice John Roberts and Justices Clarence Thomas, Antonin Scalia, and Anthony Kennedy. Alito cited a "bedrock principle that, except perhaps in the rarest of circumstances, no person in this country may be compelled to subsidize speech by a third party that he or she does not wish to support."<sup>41</sup>

A victory for the plaintiffs in the *Friedrichs* case would ensure that government employees would not be forced to pay dues to unions that support political causes and candidates they oppose. But state lawmakers need not wait for the Supreme Court. They can provide those protections now.

**Conclusion.** Public sector unions are inherently political institutions, funded at taxpayer expense, whose core mission is to advance the interests of a protected class of workers. They rely on the growth of government for members. Those who believe government can and should do more to create greater opportunity for the poor should take a serious look at the costs and inefficiencies imposed by government unions—costs that crowd out basic public services all residents rely on, from garbage collection to fire protection. Thus, government unions' interests run counter to those of taxpayers, who end up paying more for less in terms of public services.

Moreover, government unions' reliance on the growth of government for members can be detrimental to state and local economies. As recent experience shows, states where government unions are the most powerful have seen the greatest outflows of businesses and population.

Government unions are a powerful interest group that is uniquely privileged in being funded by taxpayers. Their members generally have higher levels of education than the average private sector worker, and enjoy greater compensation and job security. David taking on Goliath they are certainly not.

## Notes

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