

# Background

No. 2522  
February 25, 2011



Published by The Heritage Foundation

## Time to Restore Voter Control: End the Government-Union Monopoly

*James Sherk*

**Abstract:** *With Wisconsin Governor Scott Walker attempting to rein in the unbalanced power of government unions, and given the fierce stranglehold that union members have on their ever-increasing taxpayer-provided benefits, now is a crucial time for Americans to understand the difference between private-sector and public-sector unions. Collective bargaining in the private sphere—where companies face competition—is a world away from collective bargaining in government—which faces no competition, and where unions have a legal monopoly. Heritage Foundation labor expert James Sherk explains why it is time to restore voter control over elected government, and how it can be done.*

---

Collective bargaining by unions takes place very differently in government than it does in the private sector. Private-sector unions have competitors and bargain over the profits they help create. The government earns no profits. Government unions have a legal monopoly and bargain for a greater share of tax dollars. Collective bargaining in government means that voters' elected representatives must agree on tax and spending decisions with union representatives.

Collective bargaining also politicizes the civil service. Government unions negotiate contract provisions that force workers to join and subsidize their fundraising. These subsidies have made them the top political spenders in the country. They use that money to lobby for higher taxes and protect their inflated compensation.

### Talking Points

- Collective bargaining gives government unions a monopoly on labor. It prevents voters and taxpayers from hiring anyone on nonunion terms. This gives government unions enormous leverage over the public.
- In the private sector, competition keeps union demands in line. The government earns no profits—unions bargain for more tax dollars.
- Bargaining collectively in government means that voters do not have the final say on public policy. Instead, their elected representatives must negotiate spending and policy decisions with the unions.
- Government unions have used this leverage to raise government pay above private-sector pay and negotiate subsidies for their fundraising, thereby politicizing the civil service. Aside from the political parties, government unions are the top campaign spenders in America.
- State and local governments should restore voter control over government by ending collective bargaining with government unions.

---

This paper, in its entirety, can be found at:  
<http://report.heritage.org/bg2522>

Produced by the Center for Data Analysis

Published by The Heritage Foundation  
214 Massachusetts Avenue, NE  
Washington, DC 20002-4999  
(202) 546-4400 • [heritage.org](http://heritage.org)

Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

America can no longer afford these special-interest subsidies. State and local governments should:

- Restore voter control over government spending by ending collective bargaining with government unions.
- Restore a nonpartisan civil service by ending subsidies for union fundraising and giving workers the choice of paying union dues. Voters should tell the government how to spend their money, not the other way around.

### Collective Bargaining: The Process

Under collective bargaining, a union is designated as the employees' "exclusive bargaining representative." The employer must negotiate with the union over pay, benefits, and work rules. The employer may not employ workers for anything other than the union-negotiated terms. This gives the union a monopoly on the labor supplied to an employer. Even if other workers would take the job, the employer may not hire them for anything other than union rates.

**The Private and Public Sectors.** The labor movement grew out of the difficult working conditions of the industrial revolution. The founders of the labor movement saw unions as a way to prevent employers from exploiting workers. They also believed that labor and capital were opposed to one another. They believed that workers and management fought to divide the profits they mutually created. Labor leaders wanted monopoly bargaining power to gain clout to win more of those profits. Competition moderates union demands in the private sector. Unions know that excessive pay makes their employer uncompetitive and puts their jobs at risk.

The government operates very differently. Government employees need not fear exploitive bosses. Since the late 1800s, public employees have enjoyed the protection of civil service laws. The government also creates no profits over which to bargain. Government unions bargain for a greater share of taxes to go to their members. Since the government has no

---

**President Franklin Roosevelt deplored the possibility of strikes if government bargained collectively: "A strike of public employees manifests nothing less than an intent...to prevent or obstruct the operations of Government until their demands are satisfied. Such action, looking toward the paralysis of Government by those who have sworn to support it, is unthinkable and intolerable."**

---

competitors and no profits, unions have little reason to restrain their demands and government has little incentive to resist them. Taxpayers, not government leaders, bear the cost of concessions.

The arguments for unions in the private sector do not apply to government. Up through the 1950s, the union movement recognized and agreed with this analysis. Movement supporters believed, as AFL-CIO president George Meany did, that "It is impossible to bargain collectively with government."<sup>1</sup> President Franklin D. Roosevelt, who signed the National Labor Relations Act, had the same view. In his words, "the process of collective bargaining, as usually understood, cannot be transplanted into the public service."<sup>2</sup>

**Strikes Paralyze Public Services.** Private businesses have competitors. Consequently, private-sector strikes have a limited effect on the general public. Consumers can buy from another company during a strike. A strike by the United Auto Workers against General Motors does not shut down the auto industry—Americans simply buy cars from Ford or Toyota instead.

The government generally has no competition. The public cannot purchase alternative police; alternatives to public education and mass transit are not accessible to everyone. A monopoly on essential services gives government unions tremendous leverage to force concessions from the public. Unless the voters' elected representatives

- 
1. Leo Kramer, *Labor's Paradox: The American Federation of State, County and Municipal Employees, AFL-CIO* (New York: Wiley, 1962), p. 41.
  2. President Franklin D. Roosevelt, "Letter on the Resolution of Federation of Federal Employees Against Strikes in Federal Service," August 16, 1937, at <http://www.presidency.ucsb.edu/ws/index.php?pid=15445> (February 24, 2011).

give in, they can grind large parts of the economy to a halt.

Unions are willing to use this leverage. Detroit public school teachers went on strike illegally in 2006. The teachers union ignored the Michigan law prohibiting teacher strikes. As a result, 130,000 students started the school year late while the union pressed for concessions.<sup>3</sup> The final contract gave the Detroit teachers raises. In December 2005, New York City transit workers went on strike over a proposal to increase their contributions to their pension plans. The strike paralyzed New York City during the busiest shopping days of the year and cost the city an estimated \$400 million a day.<sup>4</sup> The government ultimately agreed to a new contract that did not increase pension contributions.

---

***As recently as 1959, the AFL-CIO Executive Council stated flatly that “In terms of accepted collective bargaining procedures, government workers have no right beyond the authority to petition Congress—a right available to every citizen.”***

---

President Roosevelt deplored the possibility of strikes if government bargained collectively: “A strike of public employees manifests nothing less than an intent on their part to prevent or obstruct the operations of Government until their demands are satisfied. Such action, looking toward the paralysis of Government by those who have sworn to support it, is unthinkable and intolerable.”<sup>5</sup>

**Binding Arbitration Imposes Terms.** Many states recognize the danger of public-sector strikes and have passed laws that prohibit government

unions from striking. Instead, “binding arbitration” resolves disputes between the government and unions. Under binding arbitration both unions and management make their case to an arbitrator. The arbitrator considers their arguments and hands down a contract which is binding on both sides. The voters’ elected representatives may not choose a different plan. The taxpayers must pay whatever the arbitrator awards, which is often quite generous. Studies show that binding arbitration significantly raises the cost of employing government workers.<sup>6</sup>

**Representative Government Undermined.** Collective bargaining gives unions a monopoly on the labor supplied to government. This takes away the final say on government policy from the voters’ elected representatives. Elected representatives must negotiate with unions over acceptable spending and policy decisions. State and local governments cannot hire nonunion employees to work for different terms.<sup>7</sup> If the government and unions disagree, the union can strike against the public or call in an arbitrator to impose terms.

Collective bargaining forces elected representatives to negotiate a contract with union leaders, excluding all other citizens and potential workers from the bargaining table. Voters’ representatives do not fully control spending and tax decisions. They must reach agreement with union leaders who are unaccountable to the general public. This undermines the principle of voter sovereignty. Union leaders once recognized and opposed this. As recently as 1959, the AFL-CIO Executive Council stated flatly that “In terms of accepted collective bargaining procedures, government workers have no right beyond the authority to petition Congress—a right available to every citizen.”<sup>8</sup>

- 
3. “Detroit Public Schools Cancel Classes Indefinitely Amid Teachers Strike,” Associated Press, September 5, 2006.
  4. “Striking NYC Transit Union Fined \$1M Per Day,” FoxNews, December 21, 2005, at <http://www.foxnews.com/story/0,2933,179241,00.html> (February 24, 2011).
  5. Roosevelt, “Letter on the Resolution of Federation of Federal Employees Against Strikes in Federal Service.”
  6. Michigan Task Force on Local Government Services and Fiscal Stability, “Final Report to the Governor,” May 2006, p. 31, at [http://www.michigan.gov/documents/FINAL\\_Task\\_Force\\_Report\\_5\\_23\\_164361\\_7.pdf](http://www.michigan.gov/documents/FINAL_Task_Force_Report_5_23_164361_7.pdf) (February 24, 2011).
  7. Federal laws permitted President Reagan to fire the illegally striking air traffic controllers in 1981 and bring in emergency replacements. State and local laws do not allow the government to hire nonunion workers to lower labor costs. States and municipalities must hire workers for the terms agreed to in the contract or imposed by the arbitrator.
  8. Kramer, *Labor’s Paradox*, p. 41.

**Inflated Government Pay.** Nonetheless, many state governments decided to bargain collectively. As a result, state and local government employees now earn above-market compensation.

In terms of cash wages, state and local government employees' earnings are comparable to similar private-sector workers, but they receive much more generous benefits. As of February 2011, for instance, government employees in Wisconsin contributed almost nothing to their defined-benefit pension plans, and paid only 6 percent of their health care premiums. In the private sector, workers pay 18 percent of their premiums for single plans and 29 percent for family plans.<sup>9</sup> Including the value of these benefits, state and local government employees earn noticeably more than their private-sector counterparts.<sup>10</sup>

The public pays for these benefits with higher taxes and less spending on other priorities. Some union-funded organizations, such as the Economic Policy Institute, contend that state and local government employees are underpaid. These groups arrive at this conclusion using data from the National Compensation Survey (NCS). The NCS measures private-sector compensation accurately. But for government compensation, it only measures employer pay expenditures—not the value of what the government promises to pay. Thus, the NCS ignores the value of promised pension benefits for which the government has not set aside enough money. It also ignores the value of retiree health benefits.<sup>11</sup>

These benefits systematically inflate government pay. The NCS also omits the value of the strong job security that government employees receive. Studies based on NCS data systematically undercount

the value of government benefits, which leads to the claim that state workers are underpaid.

**Using Government to Serve Private Interests.** Government unions use collective bargaining to profit at the public's expense in ways that go beyond pay. Unions can negotiate contract provisions that direct public resources to the union. The Wisconsin Education Association (WEA) runs a health insurance plan known as WEA Trust. WEA Trust premiums outstrip those of competing insurance carriers. During collective bargaining, however, WEA presses school districts to purchase health insurance through WEA Trust. Currently 64 percent of Wisconsin school districts do so.<sup>12</sup> Allowing school districts to purchase competitively priced health insurance would save Wisconsin taxpayers \$68 million a year.<sup>13</sup>

Collective bargaining also enables unions to negotiate work rules that benefit their members at the expense of quality public services. During negotiations, government unions typically insist on seniority pay and job security. No matter how hard or little they work, they will earn the same amount. This eliminates most of the incentive to shine on the job.

Standard pay regardless of performance also hurts the public. School districts find it almost impossible to reward good teachers or fire bad ones. One study has found that merely replacing the worst performing 5 percent of teachers with average quality teachers would move the U.S. near the top of international math and science rankings.<sup>14</sup> Union contracts that prevent schools from replacing failing teachers hurt children.

9. Kaiser Family Foundation and Health Research and Educational Trust, "Employer Health Benefits: 2010 Annual Survey," Exhibit B, p. 2, at <http://ehbs.kff.org/pdf/2010/8085.pdf> (February 24, 2011).
10. Andrew Biggs and Jason Richwine, "Those Underpaid Government Workers," *The American Spectator*, September 2010, at <http://spectator.org/archives/2010/09/24/those-underpaid-gothose-underp/print> (February 24, 2011).
11. In almost all states retiree health benefits are not pre-funded, but paid for on a pay-as-you-go system.
12. The Education Action Group Foundation, "A Crucial Challenge for Wisconsin Schools: Escaping the Financial Shackles of WEA Trust Insurance," Fall 2010, at <http://www.neaexposed.com/weaexposed/documents/WEATrustfinalreport.pdf> (February 24, 2011).
13. *Ibid.*
14. Eric A. Hanushek, "The Economic Value of Higher Teacher Quality," National Bureau of Economic Research Working Paper No. 16606, December 2010, at <http://www.nber.org/papers/w16606> (February 24, 2011).

Unions further negotiate provisions that benefit them institutionally at their members' expense. Many government employees oppose their union's agenda. In the 28 states without right-to-work laws, however, unions negotiate contracts that require government employees to pay union dues or lose their jobs. Unions also negotiate large subsidies for their fundraising. They negotiate for the government to collect union dues through its payroll system. This spares unions the expense of doing their own fundraising.

Without these provisions unions would bring in far less money. Federal law gives most federal employees the choice of belonging to a union. Most choose not to join. The federal unionization rate is only 18 percent—far lower than for states like Wisconsin, where 50 percent of state and local government employees belong to unions.<sup>15</sup>

**Politicized Civil Service.** America has embraced the principle of a nonpartisan civil service for more than a century. Government employees should serve the public under the law and under lawful direction of elected officials—not the interests of the union or whichever political party the union favors. Collective bargaining in government politicizes the civil service—because government unions negotiate and decide how much voters and taxpayers will pay for government services. To achieve greater concessions, they campaign for supportive politicians to be their bosses. When they succeed, unions control both sides of the bargaining table: Labor and management will collude to raise government salaries at taxpayer expense.

Unions' special legal privileges give them enormous financial clout. Nationwide, 5.5 million state and local government employees must either pay union dues or lose their jobs.<sup>16</sup> The government subsidizes the collection of these forced dues with its payroll system, raising billions of dollars for government unions.

Part of this money goes to pay union leaders' generous salaries. Gerald McEntee, President of the American Federation of State, County and Municipal Employees (AFSCME) earned \$376,000 in base salary in 2009.<sup>17</sup> But government unions spend far more of their money on politics. In the election year of 2008, AFSCME's national headquarters spent 32 percent of its budget—\$63.3 million—on political activities and lobbying.<sup>18</sup> Local AFSCME chapters spent millions more.

### Three of Top Five Political Spenders Are Government Unions

#### Non-Political-Party Spending During 2009–2010 Election Cycle

American Federation of State, County and Municipal Employees	\$91 million	
U.S. Chamber of Commerce	\$75 million	
American Crossroads and Crossroads GPS	\$65 million	
Service Employees International Union	\$44 million	
National Education Association	\$40 million	

Sources: Brody Mullins and John McKinnon, "Campaign's Big Spender," *The Wall Street Journal*, October 22, 2010; and Steven Greenhouse, "Union Spends \$91 Million on Midterms," *The Caucus*, New York Times Blog, October 22, 2010.

Chart 1 • B 2522  [heritage.org](http://heritage.org)

- Author calculations using data from the 2010 Current Population Survey. This figure is for non-Postal Service employees. In the Postal Service, 69 percent of employees are union members. Note: Some employees, such as managers, are prohibited from unionizing.
- Heritage Foundation calculations using data from the 2010 Current Population Survey conducted by the Bureau of Labor Statistics. The figure reports the total number of state and local government employees who belong to unions in states without right-to-work laws.
- Form LM-2 Labor Union Annual Report, American Federation of State, County and Municipal Employees, 2009, File No. 000-289, at <http://www.unionreports.gov> (February 24, 2011).

Government-employee unions now spend more than any other outside group on U.S. elections. Of the five largest spenders in the 2010 election cycle outside of political parties, three were unions that represent government employees. AFSCME took the top spot, spending \$91 million to elect its members' bosses. That total dwarfed the Chamber of Commerce's \$75 million, and the \$65 million raised by Republican Party-allied groups. As Larry Scanlon, head of AFSCME's political operation said: "We're the big dog, but we don't like to brag."<sup>19</sup> This spending gives government unions significant political power.

---

**Government unions are the driving force behind most campaigns to raise taxes and prevent spending cuts.**

---

Government unions use this power to campaign for higher taxes and more government employees—in order to increase union membership and the amount of money flowing to the union from dues. They are the driving force behind most campaigns to raise taxes and prevent budget cuts.<sup>20</sup> They attempt to make government expansion the path of least political resistance. If politicians refuse to support this agenda, government unions will use their power to defeat them.

At times they state this openly. A Service Employees International Union (SEIU) representative told California legislators that "We helped to get

you into office, and we got a good memory. And come November, if you don't back our program, we'll help get you out of office."<sup>21</sup> Collective bargaining has thoroughly politicized the civil service in many states. Increasingly—and contrary to basic democratic principles—it is union leaders, not elected officials, who essentially decide how much taxes people pay, and how the government will spend those taxes.

### A Policy Choice

Institutional collective bargaining was a policy decision made by state and local governments. Labor unions had traditionally opposed collective bargaining in government. During the 1950s, private-sector union membership peaked and began to decline. The union movement then came to see government employees as valuable new dues-paying members. It reversed its stance on government bargaining in the late 1950s. Beginning with New York City in 1958 and Wisconsin in 1959, many state and local governments across the country began to bargain collectively, largely as a result of union pressure.<sup>22</sup>

Many other states concluded that this decision was a mistake. While 25 states have comprehensive collective-bargaining laws, the remaining 25 states limit collective bargaining for some or all classes of government employees.<sup>23</sup> Voters can exercise full control over their government. Some states, such as Virginia, ban collective bargaining by government unions outright.

---

18. *Ibid.*, 2008.

19. Brody Mullins and John McKinnon, "Campaign's Big Spender," *The Wall Street Journal*, October 22, 2010, and Steven Greenhouse, "Union Spends \$91 Million on Midterms," *The New York Times* blog *The Caucus*, October 22, 2010, at <http://thecaucus.blogs.nytimes.com/2010/10/26/union-spends-91-million-on-midterms/> (February 24, 2011).

20. James Sherk, "The New Face of the Union Movement: Government Employees," Heritage Foundation *Backgrounder* No. 2458, September 1, 2010, at <http://www.heritage.org/research/reports/2010/09/the-new-face-of-the-union-movement-government-employees>.

21. Steven Malanga, "The Beholden State: How Public-Sector Unions Broke California," *City Journal*, Vol. 2, No. 2 (Spring 2010), at [http://city-journal.org/2010/20\\_2\\_california-unions.html](http://city-journal.org/2010/20_2_california-unions.html) (February 24, 2011). To view a video of the SEIU member making this statement, see "SEIU Threat," YouTube.com, June 18, 2009, at [http://www.youtube.com/watch?v=avB\\_iFEURY4](http://www.youtube.com/watch?v=avB_iFEURY4) (February 24, 2011).

22. David Denholm, "Are Labor Unions a Good Thing?" in *Sweeping the Shop Floor: A New Labor Model for America*, Evergreen Freedom Foundation, 2010, p. 50, at <http://www.ewfa.org/files/pdf/SWEEPINGTHESHOPFLOOR.pdf> (February 24, 2011).

23. AFSCME, "Who has the Power? Fighting for Economic Justice," Online Workshop, April 7, 2008, at [http://www.afscme.org/docs/FINAL\\_Econ\\_Justice\\_self-paced\\_4-7-08.ppt](http://www.afscme.org/docs/FINAL_Econ_Justice_self-paced_4-7-08.ppt) (February 24, 2011).

**Restoring Voter Control and a Nonpartisan Civil Service.** Wisconsin Governor Scott Walker has proposed restoring voters' control over their elected government. He proposes eliminating negotiations over government benefits and work rules, and requires voters to approve any wage increases beyond inflation. These changes allow Governor Walker to reduce the generosity of government health and pension benefits to close Wisconsin's budget gap.

Walker also proposes significant steps to restore a nonpartisan civil service: He would allow government employees in Wisconsin to keep their jobs without paying union dues. Unions would have to demonstrate support among employees in an annual secret-ballot vote in order to remain recognized as the employees' bargaining representative. The state government would also end collection of union dues through its payroll system. The changes would remove the special privileges that inflate government unions' political clout.

Other states should follow Wisconsin's lead and cease collective bargaining with government unions. Government collective bargaining raises the cost of public services, politicizes the civil service, and directs tax dollars to special interests. The arguments in favor of collective bargaining do not apply to government: The government earns no profits and has a monopoly on its services. Government unions bargain to get more money from taxpayers. This does not serve the public's interests. Elected representatives, not unions, should have the final say on government policy.

States should also stop subsidizing union politicking. The law should not force government employees to hand over hundreds of dollars a year to unions, and should not subsidize union fundraising. Stopping this would go a long way toward restoring a nonpartisan civil service. American government should once again serve the needs of the people.

—James Sherk is Senior Policy Analyst in Labor Economics in the Center for Data Analysis at The Heritage Foundation.