

Wisconsin's Legacy for Unions

By STEVEN GREENHOUSE

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Three years ago, a labor leader named Marty Beil was one of the loudest opponents of Gov. Scott Walker's "budget repair bill," a proposal that brought tens of thousands of protesters out to the Wisconsin State Capitol in Madison in frigid February weather. A gruff-voiced grizzly of a man, Mr. Beil warned that the bill was rigged with booby traps that would cripple the state's public-sector unions.

He gets no satisfaction from being right. Since the law was passed, membership in his union, which represents state employees, has fallen 60 percent; its annual budget has plunged to \$2 million from \$6 million.



"It's had a devastating effect," the labor leader Marty Beil, said of Wisconsin's law curbing union power. Credit Joshua Lott for The New York Times

Mr. Walker's landmark law — called Act 10 — severely restricted the power of public-employee unions to bargain collectively, and that provision, among others, has given social workers, prison guards, nurses and other public employees little reason to pay dues to a union that can no longer do much for them. Members of Mr. Beil's group, the Wisconsin State Employees' Union, complain that their take-home pay has fallen more than 10 percent in recent years, a sign of the union's greatly diminished power.



Backed by Gov. Scott Walker, center, the legislation drew fierce protests. Credit Narayan Mahon for The New York Times

"It's had a devastating effect on our union," Mr. Beil, its executive director, said of Act 10. He was sitting in his Madison office, inside the headquarters that his union, hard up for cash, may be forced to sell. The building is underused anyway, as staff reductions have left many offices empty.

Wisconsin was the first state to grant public-sector unions the right to negotiate contracts. Before Gov. Gaylord Nelson signed that law in 1959, only unionized workers in private companies had a government-protected right to bargain collectively. But the Wisconsin idea soon spread around the country. Act 10 is an about-face, and Mr. Walker and his Republican supporters see it as a tough-minded strategy that other states can follow. History repeating itself, if in reverse.

Many labor leaders and union members are still fuming about the law. It bars public-sector unions from bargaining over pensions, health coverage, safety, hours, sick leave or vacations. All they can negotiate is base pay, and even that is limited: any raises they win cannot exceed inflation.

"I speak to union officials in other states, and I tell them, 'Don't be misled,'" Mr. Beil said. "We thought this could never happen here. But it did. You have to stay vigilant."

Mr. Walker, who is widely viewed as a Republican presidential contender in 2016, has already emboldened other Republican-controlled states to enact measures that weaken unions and cut benefits. Tennessee and Idaho passed laws that cut back bargaining rights for public schoolteachers, while Ohio curbed collective bargaining for all state employees — though that law was repealed in a 2011 referendum. Even longtime union strongholds like Michigan and Indiana have enacted right-to-work laws that undercut private-sector unions by banning any requirements that workers pay union dues or fees. (A state judge's decision that declared the Indiana law unconstitutional is being appealed to the state's Supreme Court.)

Mr. Walker's tough stance toward public-employee unions has steeled governors and mayors grappling with large unfunded pension obligations. And his criticisms of pensions have been reinforced by the turmoil in Detroit,

where the often-generous and sometimes scandal-ridden pension system played a substantial role in the city's bankruptcy.

"You're seeing more politicians willing to stand up to public-sector unions," said Gary Chaison, a professor of labor relations at Clark University. "Fairly or unfairly, public-sector unions are increasingly being seen as part of the problem."

Mr. Walker survived a hard-fought recall vote two years ago. Now, as he heads into a re-election campaign, he faces the renewed opposition of labor — not to mention the embarrassing release of thousands of emails showing that his aides did political work on government time during his first race for governor, when he was the Milwaukee County executive. But he points proudly to the effects of Act 10. He says the law has given government officials far greater freedom to make budgetary decisions, allowing the state and its 72 counties and more than 440 school districts to save \$2 billion. Beyond that, he says, the law has enabled school districts to fire ineffective teachers, hire more qualified ones and adopt pay-for-performance policies.

"The reforms have done exceptionally well in terms of the financial benefits they provided," Mr. Walker said in an interview. "Many people don't fully realize that the lasting reform of Act 10 is it helps communities balance their budget."

Many Wisconsin officials are grateful for the flexibility and authority the law gives them, while public-sector workers say it has reduced their living standards and sapped morale. But government officials and government employees have no dispute on this point: It has fundamentally changed the dynamic between them.

New Flexibility, Bad Morale

There are 414,600 public-sector employees in Wisconsin, and it's safe to say that few would call Mr. Walker their favorite person. The governor recalls a visit to one elementary school where a teacher asked, "Why do you hate teachers so much?"

He said his response was: "I'm not attacking teachers. The ones who make you feel under attack are your union. It's in their best interest to get people pumped up."

Mr. Walker said he became frustrated with public-sector unions when he was Milwaukee County executive. Union leaders, he said, were inflexible in negotiations, rejecting a proposal to cut pay by going to a 35-hour workweek instead of 40 hours. Instead, he said, he was forced to lay off workers and cut services.

"The left goes crazy when I evoke this," he said, "but that's exactly why I raised concerns about collective bargaining in the public sector."

Act 10, he argues, allows local governments the kind of sensible flexibility he lacked as county executive. And it helps communities and school districts save money to avoid or minimize police or teacher layoffs.

All over the state, public executives are exercising new authority. Instead of raising teachers' salaries, the Mequon-Thiensville School District, near Milwaukee, froze them for two years, saving \$560,000. It saved an additional \$400,000 a year by increasing employee contributions for health care, said its superintendent, Demond Means. And it is starting a merit pay system for teachers, a move that has been opposed by some teachers and embraced by others.



Ted Neitzke, superintendent of West Bend schools, said that before Act 10, his district had to cut course offerings and increase class sizes. Credit Nathan Weber for The New York Times

Ted Neitzke, school superintendent in West Bend, a city of 31,000 people north of Milwaukee, said that before Act 10 his budget-squeezed district had to cut course offerings and increase class sizes. Now, the district has raised the retirement age for teachers and revamped its health plan, saving \$250,000 a year. “We couldn’t negotiate or maneuver around that when there was bargaining,” Mr. Neitzke said. “We’ve been able to shift money out of the health plan back into the classroom. We’ve increased programming.”

James R. Scott, a Walker appointee who is chairman of the Wisconsin Employment Relations Commission, which administers the law regarding public-employee unions, said that “as a result of Act 10, the advantages that labor held have been diminished.” He added: “It’s fair to say that employers have the upper hand now.”

In Oshkosh, Mark Rohloff, the city manager, says the law has saved his city \$1.2 million a year, largely because employees are now paying more of their pension and health contributions. But he said state aid cuts of \$2 million a year left his city with an \$800,000 shortfall.

Among the city’s 560 city workers, union membership has fallen to 225, down from 450. The police and the firefighters, who were exempted from Act 10’s restrictions on collective bargaining, make up most of the remaining union members. Mr. Rohloff said his city’s police and firefighters have averaged annual raises of 2.5 percent, while the other workers had no across-the-board raises from 2010 to 2012, and received a 1 percent increase in 2013. “Some of the employees who are not represented feel they’re second-class citizens compared to other employees,” Mr. Rohloff said.

Demoralization is the flip side of Act 10. In Oneida County in northern Wisconsin, the county supervisors jettisoned language requiring “just cause” when firing employees. Now, said Julie Allen, a computer programmer and head of the main local for Oneida County’s civil servants, morale is “pretty bad” and workers are afraid to speak out about anything, even safety issues or a revised pay scale. “We don’t have just cause,” she said. “We don’t have seniority protections. So people are pretty scared.”

Assessing Act 10, Lisa Charbarneau, Oneida County’s director of human resources, said: “It’s been a kind of double-edged sword. It’s saved some money, but it’s hurt morale. It’s put a black eye, so to speak, on being a government employee, whether management or hourly. All government employees seem to have taken a hit, there’s this image that they’re sucking all these good benefits.”

‘All Sorts of Brier Patches’

Madison is the home of the very first local, founded in 1932, in the nation’s largest union of state and local employees: Local 1 of the American Federation of State, County and Municipal Employees. Since Act 10 was enacted, membership in Local 1 has plummeted to 122 from 1,000.

Leah Lipska, the president of Local 1, scoffs at Mr. Walker’s famous suggestion that public employees are the “haves” in society, noting that many earn less than \$35,000 a year. And the law, says Ms. Lipska, an information systems technician with the state corrections system, has made things much worse.

“My family is now on food stamps,” said Ms. Lipska, a mother of three who earns \$18.62 an hour. (Her husband’s computer installation business is struggling.)



Leah Lipska with her family in Mount Horeb, said the law resulted in many government employees having to take second jobs. Credit Andy Manis for The New York Times

Act 10, which still faces court challenges from unions, has generally required public employees to start contributing 6 percent of their pay toward their pensions and at least 12 percent of their health plan costs. For many employees, that meant a 12 percent pay cut; on top of that, many faced a multiyear pay freeze.

The law repealed a so-called fair-share requirement that all public employees represented by a union pay union fees, and many employees are opting out. At Ms. Lipska's local, most workers stopped paying dues and dropped their membership, she said, because the law had squeezed their take-home pay and limited how much the union could help them.

That was the case for Melissa McQuay, who earns \$42,000 a year as a social worker in Polk County. She said she was so stretched from a pay freeze and her increased health and pension contributions that she has stopped paying her \$36 a month in union dues.

"We live paycheck to paycheck," she said. "I have a kid in college. I'm unable to help out with union dues because there's nothing left over."

The law, said Lester A. Pines, a lawyer for several Wisconsin unions, is destroying unions with a thousand cuts and making it seem that it's their fault. "The State Legislature could have easily abolished collective bargaining altogether," he said. "Instead, it enacted a law that creates tremendous incentives for public employees to cease being union members, thereby destroying the unions."

Even the process of collecting dues is more cumbersome because the law bars government officials from deducting union dues from paychecks. Now unions must make individual arrangements with each member to collect dues.

"There are all sorts of brier patches in the law," Mr. Beil said.

For unions, an especially troublesome provision requires an annual "recertification" vote for every local that hopes to retain the ability to bargain collectively, albeit only over base pay. To win, a union needs not just a majority of those who vote, but a majority of all *eligible* to vote — a far steeper hurdle.

"The unions are fighting for their lives," said Charles E. Carlson, a consultant to Wisconsin's public employers for 40 years.

In December, about 400 school district unions — most of them teacher unions, but some representing janitors — sought recertification. Around 80 of them failed to get the needed majority and were decertified. Teacher unions have generally been more successful than others in winning recertification because teachers, more than, say, prison guards or computer programmers, have developed a pro-union esprit de corps within their schools.

Mr. Beil's union and its locals have decided against participating in the recertification votes. He said the rules were stacked against them, adding that if his union participated, all his staff would do year-round is to campaign for recertification.



Protests at the State Capitol in 2011. Credit Darren Hauck/Reuters

Not that they can do much else. Without the ability to bargain, his union mostly represents members on grievances and engages in collective action, like targeted — and often futile — protests. "Now 99 percent of what the staff does is organize," he said.

Mr. Beil said the state awarded most employees a 1 percent raise in 2013, following a two-year pay freeze. But while nonunion state employees received that 1 percent raise in July, unionized employees have not yet received it — they will finally get it at the end of this month — because the Republican-dominated Legislature needs to approve raises for union members, and it has been in no rush. "The state has all the ability to be arbitrary even if you play by the rules," Mr. Beil said. "All this makes it difficult to show value to the members."

Some unions have improvised in response to the law, to make sure that their concerns are heard, if not always

heeded. The teachers' union in Racine feared that the school district would scrap parts of the old contract that limited class sizes and prohibited terminations except for "just cause." The union held nearly 30 meetings — technically not bargaining sessions — with district officials, who ultimately agreed to put class-size limits and "just cause" protections into their annual handbook on school policies.

The union considered that a victory. "This collaboration helps the district by creating job stability and attracting teachers," said Jack Bernfeld, executive director of Racine's teachers' union.

A handbook, however, does not have the legal weight of a contract.

Stoking the Political Fires

Mr. Beil, who quickly grows heated when discussing Act 10, is convinced that there was an insidious intent in the law, beyond budget-cutting and government flexibility. "The reason for the law," he said, "is how are we going to emasculate the unions in Wisconsin so they are no longer politically influential in state elections."

Mr. Walker has often heard this accusation. "If it's a political decision, it's a very odd one," he said. "I don't think anyone would say, 'Let's do something that will generate 100,000 people coming out to protest in the capital, and go through all the grief and attacks and death threats.'"

Nonetheless, he knows he has made himself a big, fat political target in the campaign for governor this year. "For not just Wisconsin unions, but national unions, I'm at the top of the list of people they'd have on a platter," he said. "Not just for retribution, but they understand that if they could take me out, it would send a very powerful message to other governors and other mayors. But if we're able to win again in a tough, evenly divided battleground state, that would send another message — that you can take on some of these issues and still survive."

The unions — and the Democrats — are already using Mr. Walker's own words about the law against him. Three years ago, Mr. Walker argued that Act 10 would do more than help governments balance budgets. He predicted that it would improve Wisconsin's business climate and advance his pledge to create 250,000 jobs in his four-year term. But according to federal statistics, Wisconsin has added a net total of 53,809 since he took office. Mary Burke, the likely Democratic nominee, has already made the question, "Where are the 250,000 jobs that this governor promised?" — a campaign theme.

Rick Badger, executive director of a union representing city and county employees throughout Wisconsin, foresees a big anti-Walker effort this November, bolstered by money coming into Wisconsin from parent unions. "We have less financial resources — that's a given," Mr. Badger said. "But the activists who were strongly engaged three years ago are still there. People are still angry."

Lee Saunders, national president of the American Federation of State, County and Municipal Employees, vowed to bring outside help and lots of money to unseat Mr. Walker. "We're going to support the workers and our allies who stood up against Scott Walker," said Mr. Saunders, who also serves as chairman of the A.F.L.-C.I.O.'s political committee. "We'll be moving into the state to try to defeat him."

Ms. Lipska, however, just can't fathom that there will be much union political activism in November. Workers are worn down, she said, having lost the legislative battle in 2011 and then the attempt to oust Mr. Walker in the 2012 recall vote. Not only that, many government workers have been forced to take second jobs, said Ms. Lipska, who moonlighted for several months as a \$9.50-an-hour shift manager at Rocky Rococo, an Italian restaurant. "A lot of people are tired," she said. "They're tired of politics."

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