

The Battle for Wisconsin

Scott Walker vs. Public Employee Unions

By Matt Patterson

Summary: *Wisconsin is the birthplace of American public-sector unionism. In 1930s the American Federation of State, County and Municipal Employees (AFSCME) first organized in Madison. How ironic then that Wisconsin may also be the burial ground for public-sector unionism. Governor Scott Walker and the state legislature confront implacable and intractable union opposition as they struggle to bring Wisconsin's finances under control. The Badger State has become ground zero in the battle between unions intent on expanding their health and pension plans and state governments determined to avoid bankruptcy.*



Wisconsin Gov. Scott Walker

In 1932, a small group of Wisconsin state workers organized in depression-stricken Madison to “promote, defend and enhance the civil service system,” and to spread the gospel of civil service throughout the country.

Their creation, the Wisconsin State Employees Union/Council 24, was soon rechristened the American Federation of State County and Municipal Employees (AFSCME), and in 1936 it received a charter from the American Federation of Labor (AFL): Public-sector unionism was born.

Times are not as tough these days as they were back in the 1930s, but Wisconsin in 2011 is nonetheless in dire fiscal shape, facing an immediate \$136 million deficit and a projected \$3.6 billion budget shortfall over the next two years. (Wisconsin has a lot of company: forty-four states and the District of Columbia face shortfalls of \$125 billion for fiscal year 2012, according to the Center on Budget and Policy Priorities.)

Simply put, the costs of governing Wisconsin are unsustainable, and one of the primary reasons, according to Lt. Governor Rebecca

Kleefisch, is the cost of state employee health plans, which have risen 90 percent since 2002.

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Desperate to avoid layoffs yet still put his state's financial house in order, on February 11th newly elected Republican Gov. Scott Walker proposed a comprehensive "budget repair" bill. "We must take immediate action to ensure fiscal stability in our state," explained Walker. "This budget repair bill will meet the immediate needs of our state and give government the tools to deal with this and future budget crises." Among the bill's salient features was the shocking suggestion that public employees contribute 5.8 percent toward their own pension plans (roughly the national average) and 12.6 percent toward their health benefits (still well below the national average). These provisions alone would save the state an estimated \$30 million in the final three months of the fiscal year ending in July.

As shocking as these measures were to unions, Walker wasn't done. In addition to asking public workers to pay more for their retirement and health care, the Governor called for sweeping reforms of the state's collective bargaining system. As a press release from the Governor's office explained:

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"[T]he budget repair bill gives state and local governments the tools to manage spending reductions through changing some provisions of the state's collective bargaining laws. The state's civil service system, among the strongest in the country, would remain in place. State and local employees could continue to bargain for base pay, they would not be able to bargain over other compensation measures. Local police, fire and state patrol would be exempted from the changes. Other reforms will include state and local governments not collecting union dues, annual certification will be required in a secret ballot, and any employee can opt out of paying union dues."

In addition, under the proposed new rules wage increases would not exceed a cap based on the consumer price index (CPI), unless the voters agreed through a referendum. Contracts would be limited to one year in duration and, perhaps most devastating to unions, "collective bargaining units [unions] are required to take annual votes to maintain certification as a union." The bill's measures were estimated to produce savings of \$330 million over the next two years. In exchange for these concessions from the unions, Walker has promised not to lay off any of the state's 170,000 employees.

Unions Mobilize

Reaction was swift and furious. Protests erupted almost immediately, and on February 17, more than 20,000 pro-union agitators descended on the state Capitol to voice their opposition to Walker and his plans. "This is disgusting," said union ironworker Sean

Collins of Waunakee, quoted in the L.A. Times. "Everybody in Wisconsin should be scared, because if the unions go down, everybody else's standards will go down."

The national apparatus of organized labor moved quickly to provide logistical and public relations support for the anti-Walker protesters. Eddie Vale, a spokesman for the AFL-CIO, proclaimed: "All across the country, Republican governors and legislators have almost immediately moved to strip working families of their rights and eliminate their unions as political payback to their Wall Street and corporate CEO donors." Vale was referring to governors like New Jersey's Chris Christie (profiled in last month's *Labor Watch*) and Ohio's John Kasich, who have promoted similar bills curtailing or reforming the collective bargaining capacities of their state's public sector unions.

Even President Barack Obama came to the defense of Wisconsin's beleaguered unions (no wonder, since Big Labor spent a combined \$400 million to help elect him in 2008, according to *The Wall Street Journal*). "Some of what I've heard coming out of Wisconsin, where you're just making it harder for public employees to collectively bargain, generally seems like more of an assault on unions," Obama said in an interview with a Wisconsin TV station. "And I think it's very important for us to understand that public employees, they're our neighbors, they're our friends." In response, Walker said, "We are focused on balancing our budget. It would be wise for the government and others in Washington to focus on balancing

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their budgets, which they are a long way off from doing.”

The ferocity of the outcry in Wisconsin betrayed the special place it holds in the heart of Big Labor. Not only was AFSCME born there in the 1930s, but in 1959 Wisconsin became the first state to grant all its public-sector employees full collective bargaining rights, one of the seminal accomplishments in the history of the labor movement. After 1959, the door opened for other state-employee unions across the nation to bargain with the very officials they helped elect, officials who were all-too-happy to reward unions with fat pensions and health plans.

Unfunded and underfunded obligations piled up as pliant politicians paid off union officials and kicked the fiscal can down the road, leaving a mess for future taxpayers and future governors to clean up. The result: five decades later, state and municipal budgets all across the country lay in ruins.

Teachers and Legislators Behaving Badly

Gov. Walker was offering a simple deal - unions must contribute a bit more for their own health care and pension plans, and in exchange he would allow everyone who worked for the state of Wisconsin to keep their jobs. To many this seemed like a

reasonable, necessary, and belated bargain. Unfortunately, Wisconsin's teachers felt otherwise.

The average salary of a Milwaukee public school teacher is \$56,500. But factor in the enormous benefits packages, including health care and pensions, and the annual average compensation is \$100,005! In spite of its well-compensated instructors, and per-pupil spending higher than in any other Midwestern state, two thirds of Wisconsin 8th graders cannot read at a proficient level, according to 2009 data from the U.S. Department of Education. Twenty-two percent, or nearly one in four students, cannot even

read at a “basic” level. True, that is slightly higher than the national average — but what a pathetically weak average it is! An atrocious 30 percent of 8th graders nationwide are “proficient” readers.

In spite of this dismal record, Wisconsin’s teachers had the temerity to walk off their jobs en masse in protest of Walker’s proposals. They flocked by the thousands to the capitol in Madison, forcing the closure of schools throughout the state. Even though they declined to teach while protesting their right to bankrupt the state, they still collected their salaries. As reported by the MacIver Institute:

“In Madison, the school district was closed for three days after hundreds of teachers engaged in a mass sick-out so they could attend protest rallies at the State Capitol. That could cost the district \$2.7 million [...]. If all the teachers in Milwaukee and Madison are paid for the days missed, the protest related salaries for just the state’s two largest districts would exceed \$6.6 million dollars.”

The rage of Wisconsin’s teachers is matched - and perhaps exceeded - by that of the state’s Democratic lawmakers: None of the senate’s 14 Democrats was present Feb. 17 as the body prepared to vote on Walker’s measure, successfully preventing a quorum and delaying the vote. The Governor’s Office was prepared to send out state troopers to return the recalcitrant Democrats, but many legislators anticipated the move and crossed the border into neighboring Illinois, fleeing like thieves in the night. Instead of allowing the absent Democrats to hijack the

debate and derail his reforms, Walker and his Senate allies ingeniously stripped the bill of its fiscal measures (and therefore the need for a quorum) and voila! Senate passage was secured. The Democrats were chagrined to find that the state government got on perfectly well without them. Having fled the state, abandoning their constituents and the job they are paid to do, the Democrats and their union allies were shocked -- shocked! -- that Republicans got about the business of governing without them.

Enter Judge Sumi, Union Partisan

Outmaneuvered in the legislature, Wisconsin’s unions, turned to the liberal’s favorite branch of government - the judiciary – for succor. They found it in the person of Dane County Circuit Court Judge Maryann Sumi, who on March 18 issued an injunction summarily blocking publication of Walker’s new law.

Judge Sumi’s decision temporarily prevented Wisconsin Secretary of State Doug La Follette from publishing the law (publication is required for new legislation to take full effect), until she could rule on a complaint brought by Dane County District Attorney Ismael R. Ozanne, a Democrat. Ozanne alleged in his complaint that the way in which the measure was passed violated the state’s open meeting law, which under normal circumstances requires 24 hours notice before a vote.

“It seems to me the public policy behind effective enforcement of the open meeting law is so strong that it does outweigh the interest,

at least at this time, which may exist in favor of sustaining the validity of the [law],” said Sumi of her decision. However, Rob Marchant, the Chief Clerk of the Wisconsin Senate, had this to say about the procedure used to pass Walker’s measure:

“There was some discussion today about the notice provided for the legislature’s conference committee. In special session, under Senate Rule 93, no advance notice is required other than posting on the legislative bulletin board. Despite this rule, it was decided to provide a two-hour notice by posting on the bulletin board. My staff, as a courtesy, e-mailed a copy of the notice to all legislative offices at 4:10, which gave the impression that the notice may have been slightly less than 2 hours. Either way, the notice appears to have satisfied the requirements of the rules and statutes.”

The opinion of the Senate’s chief clerk on a matter of parliamentary procedure is not unimportant, particularly in this instance. Specifically, Rule 93 of the Wisconsin Senate declares:

“Unless otherwise provided by the senate for a specific special, extended or extraordinary session, the rules of the senate adopted for the regular session shall, with the following modifications, apply to each special session called by the governor and to each extended or extraordinary session called by the senate and assembly organization committees or called by a joint resolution approved by both houses. ... No notice of hearing before a committee shall be required other than posting on the legislative bulletin board, and

no bulletin of committee hearings shall be published.”

Walker’s collective bargaining measure had indeed passed when the Senate was in special session. Either Judge Sumi was (1) aware of this, yet blocked publication of the law anyway out of ideological sympathy with the unions that are bankrupting Wisconsin, in which case she is a political hack of the worst kind; or (2) she was unaware of this, and therefore so ignorant of Wisconsin laws and legislative mores as to be unqualified to rule on the issue before her.

Soon after Sumi issued her injunction, evidence emerged pointing clearly to option (1). Sumi’s son, Jacob “Jake” Sinderbrand, is a professional left-wing political operative with longstanding ties to both the AFL-CIO and the SEIU, both of which represent public-employees in Wisconsin. Currently, Sinderbrand is affiliated with Left Field Strategies, “a firm dedicated to maximizing efficient and effective voter contact in a modern campaign atmosphere.” His bio on the company’s website read:

“A lifelong political activist, Jake Sinderbrand got his start as a volunteer doorknocker, and has years of experience training both volunteers and canvassing staff. Jake graduated from Macalester College cum laude with a degree in political science, specializing in American political structures. He has developed his professional political experience serving as a lead field manager with the AFL-CIO and as data manager for the SEIU State Council through the 2008 election cycle.

Jake’s expertise in canvass planning and turf strategy helped these organizations to have among the most successful field operations in Minnesota.”

After Sinderbrand’s connections to organized labor were revealed, his website was taken down, doubtless in an effort to staunch the PR bleeding done to Judge Sumi and her decision (a screen grab of his bio can be found at <http://www.redstate.com/laborunionreport/files/2011/03/slide1.jpg>, courtesy of Red State and Labor Union Report). But it was too late – Sumi’s objectivity came under fire. And no wonder: section SCR 60.03 (2) of the Wisconsin Judicial Code of Conduct, titled, A judge shall avoid impropriety and the appearance of impropriety in all of the judge’s activities, states explicitly:

“A judge may not allow family, social, political or other relationships to influence the judge’s judicial conduct or judgment.” As Jason Stein of the Milwaukee Journal Sentinel noted: “The code also notes that judges should avoid situations in which family members including children have a financial stake in the outcome of a case.”

Sumi tried to deflect the question of conflict of interest, saying in a statement: “My kids are adults, they are independent, and they lead their own lives. I do not consult my family about my decisions.” Sinderbrand, too, downplayed the connection, claiming, “I have no current affiliation with any of the unions and I don’t depend on the unions for

any of my livelihood...I think that has no bearing on the case. My mom did not consult me on what her decision would be and I did not advise on it.”

Nevertheless, Sinderbrand was vocal in his opposition to Walker and his support for the union cause. The Milwaukee Journal Sentinel reported:

“On his Facebook page Sinderbrand has a picture of Walker with the caption ‘Dope. Charlie Sykes of WTMJ-AM, has uploaded screen shots of the Facebook pages showing what appear to be comments by Sinderbrand. In one, Sinderbrand says, ‘RIP middle class-Wisconsin has officially become the Tea Party’s laboratory for plutocracy. This is the beginning of the end unless we can get these (expletive) out of office. 299 days to recall; please do what you can to fight this travesty.’”

In any event, Secretary of State LaFollette complied with Sumi’s ruling. Democrat La Follette, whose great grandfather was brother to the father of Wisconsin’s famous progressive Robert La Follette, refraining from publishing the law in the Wisconsin State Journal, the official newspaper of the state government. The Legislative Reference Bureau (LRB) did publish the law on the state Legislature’s website. However, LRB chief Stephen Miller said that he does not believe that this action gives the measure the full force of law: “The way I looked at the statutes, the secretary of state publishing the act in the newspaper would make it become law.”

Walker and other Wisconsin Republicans disagreed, and the state Department of Administration began implementing the portions of the measure which deal with health care and pension withholdings from state employee checks. Sumi lashed out, threatening lawmakers who opposed her ruling, saying:

“Now that I’ve made my earlier order as clear as it possibly can be, I must state that those who act in open and willful defiance of the court order place not only themselves at peril of sanctions, they also jeopardize the financial and the governmental stability of the state of Wisconsin.”

Intimidation Nation

While the protests raged in Madison against Walker and his budget repair bill, unions and their allies deployed threats and bullying against their adversaries. Unfortunately, this unseemly behavior went largely unreported in the larger media, in spite of the recent fetish for “civil discourse” among liberal journalists. As John Nolte, a Wisconsin native and keen observer of the education wars, wrote in the website Big Journalism:

“[W]hat’s happening in Wisconsin is downright frightening because....these incidents [of intimidation] are growing in number and intensity. Furthermore, other than the Right, no one is calling for calm or civility. The local media is, at best, wrist-flicking these incidents, Democratic legislators have not called for calm, President Obama is AWOL, and worst of all, Public Union Workers not involved in the thuggish behavior taking

place in their name, have been complicit with their silence.” Nolte prepared a list of 20 reported acts, including threats of violence over a one month period in March. Among the most egregious:

1) On March 14, *Investor’s Business Daily* reported:

“State Sens. Pam Galloway, Glenn Grothman and Joe Leibham were among more than a dozen Republicans sent e-mails with messages such as ‘Death threat!!!! Bomb!!!!’ A note shoved under Grothman’s door said, ‘The only good Republican is a dead Republican.’ He has stories of getting obscene phone calls in the middle of the night. Two Republicans, state Sen. Randy Hopper and state Rep. Jeremy Thiesfeldt, feel so threatened that they backed out of marching in Saturday’s St. Patrick’s Day Parade in the city of Fond du Lac.”

2) On March 9, an anonymous email addressed to Republican state senators read:

“Please put your things in order because you will be killed and your families will also be killed due to your actions in the last 8 weeks. Please explain to them that this is because if we get rid of you and your families then it will save the rights of 300,000 people and also be able to close the deficit that you have created. I hope you have a good time in hell. Read below for more information on possible scenarios in which you will die.”

3) On March 4, the *Wisconsin State Journal* reported:

“Earlier Thursday, police reported finding

dozens of rounds of live ammunition outside the Capitol. Dane County deputies found 11 rounds near the State Street entrance Thursday morning, UW-Madison Police Chief Susan Riseling said. Twenty-nine rounds were found near the King Street entrance, and one round was found near the North Hamilton Street entrance, Riseling said.”

The Left’s policy regarding civil discourse can seemingly be boiled down to: “Good for thee, but not for me.” How else to explain AFL-CIO President Richard Trumka’s refusal to denounce the incendiary rhetoric of some Wisconsin union protesters? Appearing on NBC’s Meet the Press on February 27, Trumka was twice directly asked whether he found the tone of the protests, which featured placards and signs depicting Gov. Scott Walker as Adolf Hitler, “inappropriate” or “wrong.” The union chief dodged the question, instead replying, “We should be sitting down trying to create jobs. In Wisconsin, a vast majority of the people think this governor has overreached. His popularity has gone down. They’re saying to him, sit down and negotiate; don’t do what you’ve been doing. So he’s losing.” Yeah, negotiate like Hitler: that’s what they’re saying.

Conclusion

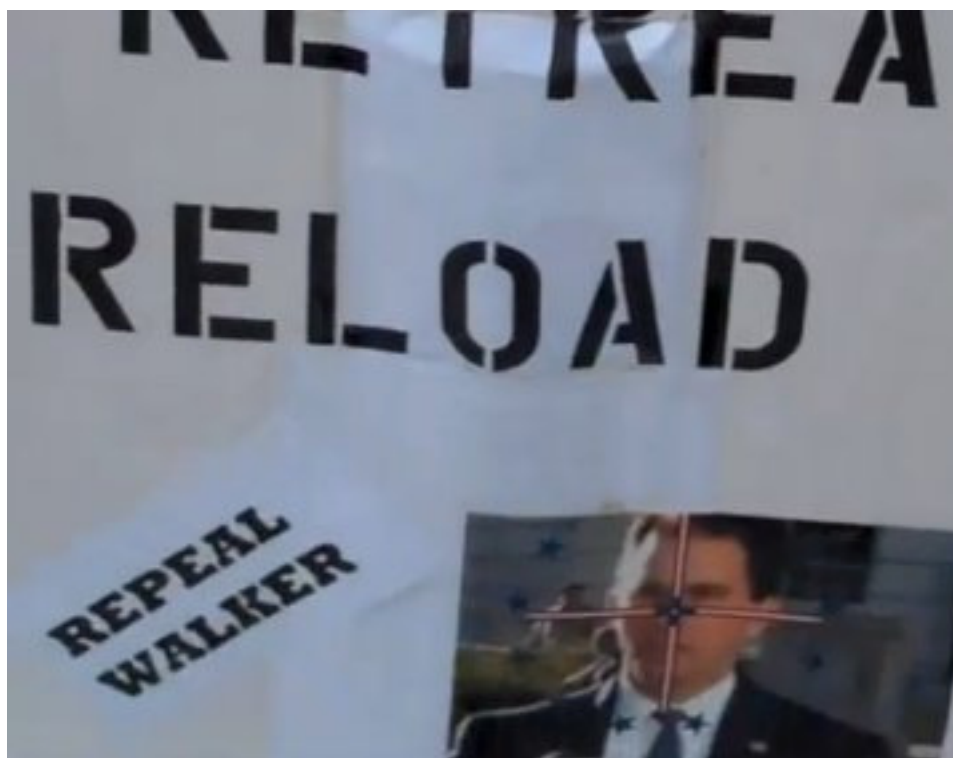
It is no surprise unions have responded with such despondent outrage over Governor Walker and his plans to save his state’s budget. For Big labor, the stakes in Wisconsin and other states couldn’t be higher.

In 1983, over 20 percent of American workers - some 17.7 million people - belonged to

a union. By 2010 that number had plummeted to not quite 12 percent, a drastic decline reflecting the nation's move from an industrial to an information economy as well as shifting cultural attitudes towards unions. But this decline in total unionization belies a new and dangerous trend – the growth, both in percentage of workers and influence, of public-sector unions. In 2009 - for the first time ever - more union members worked in government than in the private sector. The public sector is the last best hope for union survival, and so Walker and like-minded governors represent nothing less than an existential threat.

Indeed, we need look no further than Indiana to see what can happen to unions when they lose their collective bargaining powers. Prior to 2005, when Indiana state workers lost their ability to bargain collectively, 16,408 state workers paid union dues (out of about 25,000 who were eligible, or 66 percent). Today, just 1,409 (out of 20,000 eligible workers, or 7 percent), pay union dues. Before 2005, AFSCME represented some 9,000 Indiana state workers. Today only about 1,350 continue to pay AFSCME dues. It is reasonable to expect that union membership and dues will be similarly decimated in other states that adopt stringent measures to control the costs of collective bargaining.

Unions started by blackmailing and bankrupting small businesses, before moving on



Scott Walker targeted on a Wisconsin protest sign

to large corporations and then state governments. Some governor's are at last moving aggressively to break the power of these economic plunderers – we can only hope it is not too late.

LW

Matt Patterson is senior editor at the Capital Research Center and a contributor to Proud to Be Right: Voices of the Next Conservative Generation (HarperCollins, 2010).

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Many thanks,

**Terrence Scanlon
President**

LaborNotes

April 1st brought news of modest job growth in the U.S economy. According to the **Bureau of Labor Statistics** (BLS), “employment increased by 216,000 in March, and the unemployment rate was little changed at 8.8 percent.” Since last November, the unemployment rate has dropped one full percentage point. However, on April 14th, *USA Today* released an analysis of the job market showing things are still far from rosy: “Only 45.4% of Americans had jobs in 2010, the lowest rate since 1983 and down from a peak of 49.3% in 2000. Last year, just 66.8% of men had jobs, the lowest on record.” Contributing factors to these distressing statistics include, “the bad economy, an aging population and a plateau in women working,” which together “pose serious challenges for financing the nation’s social programs.” No kidding.

Thanks to the inevitable legal challenges being mounted against Wisconsin Gov. **Scott Walker’s** budget repair bill (profiled in this issue of *Labor Watch*), the future of the new law may well hinge on the make-up of the Wisconsin Supreme Court. It seems almost kismet, then, that an off-year Supreme Court election took place in the immediate aftermath of the bill’s passage. As of this writing, **David Prosser** seems to have squeaked out a win against liberal **JoAnne Kloppenburg**, who almost certainly would have voted to strike down Walker’s measure had she prevailed. As **Bruce McQuain** noted in the *Washington Examiner*, “Defeating Prosser would have meant the court went from a 4-3 conservative court to a 4-3 liberal court,” virtually dooming Walker’s hard fought victory.

The 2011/2012 football season remains in jeopardy as the labor dispute between owners and players dragged on throughout April. Famed quarterbacks **Tom Brady**, **Drew Brees** and **Peyton Manning** are leading the players’ suit against team owners, alleging anti-trust violations after collective bargaining talks broke down and owners declared a lock-out. On April 14th, both sides returned to mediations in Minneapolis under the direction of United States District Judge **Susan Richard Nelson**. Talks were still ongoing as *Labor Notes* went to press.

The **United Auto Workers** (UAW) is experiencing a modest rebound: After a 2009 membership of 355,191, the lowest since World War II, the auto union grew by 21,000 to 376,612, or 6 percent, in 2010. Still, as *The Wall Street Journal* notes: “The union’s membership is about half of what it was in 2001 and far below its peak of 1.53 million members in 1979.” This year the union will renegotiate contracts with the Big Three automakers. As *Bloomberg* reports, “UAW President **Bob King** has said workers must be rewarded for the \$7,000 to \$30,000 in concessions they each made since 2005 to help the automakers survive.” That those “concessions” not only saved the auto companies, but also the jobs of the union members seems entirely lost on King.

Florida Gov. **Rick Scott** has somehow avoided the public scrutiny engulfing his peers in Wisconsin and New Jersey. But make no mistake – Scott is no favorite of the unions, especially since his decision in February to reject \$2.4 billion in federal money for a high speed rail project between Tampa and Orlando. Unions blasted Scott for sinking the estimated 20,000 jobs they claim the project would have created. According to *The St. Petersburg Times*, “**AFL-CIO** officials, who were joined by representatives of the International Brotherhood of Electrical Workers, presented three unemployed workers – all of whom said their ability to find work was impeded directly or indirectly by the rejection of the rail money.” Whether or not Florida actually needs such a Tampa and Orlando rail service seems to be – shockingly – of little concern to the unions. Thank goodness it is of concern to the governor.