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Unions vs. the Right to Work

Collective bargaining on a broad scale is more similar to an antitrust violation than to a civil liberty.

By [ROBERT BARRO](#)

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

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

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

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

The current pushback against labor-union power stems from the collision between overly generous benefits for public employees— notably for pensions and health care—and the fiscal crises of state and local governments. Teachers and other public-employee unions went too far in

convincing weak or complicit state and local governments to agree to obligations, particularly defined-benefit pension plans, that created excessive burdens on taxpayers.

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

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

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

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

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

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