An Anti-Union Tide: The 2011 Attacks on Public-Employees' Bargaining Rights

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Periodic political tides have shaped American labor law. The Great Depression created sympathy for the plight of workers, resulting in enactment of pro-union laws: the Norris-LaGuardia Act of 1932, Section 7 of the National Industrial Recovery Act of 1933, and the Wagner Act of 1935 (also known as the National Labor Relations Act, or NLRA). A reaction against post-World War II strikes led to the anti-union Taft-Hartley Act of 1947 and to state laws banning public-employee strikes. Pro-union sentiment during the 1960s brought state laws that granted public employees the right to organize unions and bargain collectively.

As 2011 began, American labor law appeared to face the strongest anti-union tide since 1947. In many states, opponents of public-employee unions sensed an historic opportunity to revoke the collective bargaining rights that public employees won between the late 1950s and the early 1980s. This chapter describes the anti-union tide of 2011, its effect on the bargaining rights of public employees, and the efforts of labor organizations to halt this tide. It emphasizes labor law changes affecting public higher education.

The chapter reviews federal and state labor law relevant to higher education before 2011.[1] It then describes the political consequences of the November 2010 elections, focusing on Wisconsin and Ohio where newly empowered Republicans vigorously attacked public-employees' bargaining rights, provoking vigorous union responses in defense of those rights. The chapter then summarizes contemporaneous attacks on bargaining rights in other states.

LABOR LAW BEFORE 2011

Federal labor laws such as the NLRA govern labor relations in the private sector, including private colleges and universities. Employees covered by the NLRA have a protected right to organize unions, bargain collectively, and strike. But faculty and graduate teaching assistants may not be considered "employees" for purposes of the NLRA.[2] The U.S. Supreme Court's 1980 *Yeshiva* decision found that faculty with an extensive role in institutional governance were managers, not employees.[3] This decision did not make faculty unionization illegal at most private colleges and universities, but it eliminated the duty of administrations to bargain with unions of tenure-track faculty with majority support.

The National Labor Relations Board (NLRB) has oscillated on whether graduate teaching assistants in private universities are primarily students or employees. Its decisions depended on whether a majority of its appointees were pro-union Democrats or anti-union Republicans. The NLRB ruled in *New York University* (2000) that graduate teaching assistants have the right to organize and bargain collectively.[4] But it reversed this ruling in *Brown University* (2004).[5] In October 2010, the NLRB signaled a return to its 2000 stance in another ruling on NYU. "We believe," it stated, "there are compelling reasons for reconsideration of the decision in *Brown University*."[6] In June 2011, the acting regional director of the NLRB completed a board-ordered hearing on whether NYU graduate assistants were employees.[7] But the board had not ruled on overturning *Brown University* at press time.

Also contested: whether the NLRB has jurisdiction over religiously affiliated colleges and universities. In 2004, the United Auto Workers Union petitioned the NLRB for certification as the collective bargaining representative for faculty at Carroll College, a Presbyterian-affiliated school in Wisconsin.[8] The NLRB asserted jurisdiction, noting that:

> The Church does not exert any type of administrative control over the College... [There is] no evidence that the Church could require dismissal of faculty for engaging in conduct contrary to its teachings, or for advocating ideas contrary to Christianity or the Presbyterian Church. There is no evidence that students are required to attend religious services. There is also no evidence that the Church exercises any influence over course content or book selection...The College is not financially dependent on the Church.[9]

In 2009, the U.S. Court of Appeals for the D.C. Circuit ruled that the NLRB could not require proof of "actual religious influence or control," but instead must focus "solely on a school's public representations as to its religious educational environment."[10] The court vacated an NLRB order that the institution bargain with the union. But in 2010, the NLRB general counsel rejected the claim by Marquette University that merely asserting church affiliation allowed it to avoid recognizing a union of its security guards. The NLRB, the counsel argued, had not adopted the D.C. Circuit's proposed test for jurisdiction; it could appropriately require evidence about the extent of religious influence.[11] In 2011, two NLRB regional directors asserted NLRB jurisdiction in cases where adjunct faculty tried to organize at Catholic colleges deemed mostly secular.[12]

State laws, which govern labor relations at public colleges and universities, vary substantially. The 1950 Hawai'i Constitution, for example, protected the right of public employees to organize: "Persons in public employment shall have the right to organize and to present and make known their grievances and proposals to the State, or any political subdivision or any department or agency thereof." In 1968, Hawai'i replaced this language with a constitutionally protected right to collective bargaining: "Persons in public employment shall have the right to organize for the purpose of collective bargaining as prescribed by law."[13]

In contrast, a 1959 North Carolina statute prohibited public employees from joining labor unions. A federal judge found the law unconstitutional in 1969,[14] and the North Carolina legislature repealed it in 1998.[15] But a related statute, held constitutional in the same case, still provides:

> Any agreement, or contract, between the governing authority of any city, town, county, or other municipality, or between any agency, unit, or instrumentality thereof, or between any agency, instrumentality, or institution of the State of North Carolina, and any labor union, trade union, or labor organization, as bargaining agent for any public employees of such city, town, county or other municipality, or agency or instrumentality of government, is hereby declared to be against the public policy of the State, illegal, unlawful, void and of no effect.[16]

Most states have laws or policies on public-sector bargaining between these boundaries. Before 2011, about half the states required public colleges or universities to recognize and bargain collectively with labor unions with majority support. Most Northeastern, North Central, and West Coast states had laws establishing a duty to bargain. In contrast, most states in the Rocky Mountains and the South—Florida is the notable exception—did not have such laws. Public-employee strikes, though illegal in most states, sometimes occurred.

THE NOVEMBER 2010 ELECTIONS

Political changes can cause changes in labor law. Pro-union changes in public-sector bargaining statutes often occurred shortly after Democrats gained simultaneous control of the state house, the state senate, and the governorship.[17] Anti-union changes in labor law are most likely in jurisdictions where simultaneous control of both legislative branches and the executive shifts to the Republicans.

Republicans, especially conservative "Tea Party" candidates, made significant gains in the November 2010 elections. Republicans gained 63 seats in the U.S. House of Representatives, winning control of that chamber, and six seats in the U.S. Senate. In September 2011, the Republican House majority voted to restrict NRLB authority in a pending case—an unusual step.[18] Senate Republicans blocked confirmation of new NLRB appointees to prevent the board from having a three-member quorum to issue decisions.[19] But the shift in political power was too small to cause major changes in federal labor law. Democrats retained their U.S. Senate majority, and the veto power of President Barack Obama effectively precluded enactment of anti-union changes in the NLRA during 2011–12.

At the state level, the 2010 elections resulted in a net gain for Republicans of six governorships; Republicans gained 11, while losing five to the Democrats.[20] Republicans took control of 20 of the 88 state legislative chambers with elections in 2010.[21] Most important, Republicans gained simultaneous control of the state house, the state senate, and the governorship in ten states:

- Maine and Wisconsin: Republicans captured the house, senate, and governorship in the 2010 elections.
- Michigan, Ohio, and Pennsylvania: Republicans captured the house and governorship, while keeping control of the senate.
- Alabama: Republicans captured the house and senate, while keeping control of the governorship.
- Kansas, Oklahoma, and Tennessee: Republicans captured the governorship, while keeping control of the house and senate.
- Indiana: Republicans captured the house, while keeping control of the senate and governorship.[22]

Most Republicans had not campaigned in 2010 on a platform of restricting public-employees' bargaining rights. But the change in the political climate, especially the shift in ten states to unified Republican control of

the legislature and the governorship, created an opportunity to weaken public-employee unions.

Republicans had economic motives. The severe business-cycle downturn caused large budget deficits for state governments, leading public officials to cut personnel costs. Republicans also had political motives: to reduce the ability of public-employee unions to provide funding for Democratic candidates.[23] "Elected officials from Maine to Alabama, Ohio to Arizona," reported *The New York Times* in January, 2011, "are pushing new legislation to limit the power of labor unions, particularly those representing government workers, in collective bargaining and politics."

> In Ohio, the new Republican governor, following the precedent of many other states, wants to ban strikes by public school teachers. Some new governors, most notably Scott Walker of Wisconsin, are even threatening to take away government workers' right to form unions and bargain contracts.[24]

An *Economist* editorial told politicians, "Now stand and fight...[Public-sector unions'] right to strike should be more tightly limited; and the rules governing political donations and even unionisation itself should be changed to 'opt-in' ones, in which a member decides whether to give or join."[25]

WISCONSIN: THE BATTLE BEGINS

Wisconsin led the way in granting union rights to public employees. A 1959 statute granted municipal employees the right to "be represented by labor organizations...[in] negotiations with their municipal employers."[26] In 2009, Wisconsin extended collective bargaining rights to faculty and academic staff in the University of Wisconsin system, a previously excluded group.[27] But in 2011, Wisconsin reversed course and *revoked* public-employees' rights. Governor Scott Walker, a Republican, "proposed a sweeping plan…to cut benefits for public employees in the state and to take away most of their unions' ability to bargain."[28] Walker's legislation included several elements:

- Decertifying unions unless they won certification elections every year, with 51 percent of the eligible bargaining unit—not a majority of voters—supporting continued union representation.
- Prohibiting dues checkoffs by which bargaining unit members pay union dues by payroll deduction, and banning fair share arrangements that require all bargaining unit members to pay a service fee for union representation.
- Restricting the scope of bargaining to base pay rates, and limiting pay increases to the inflation rate (as measured by the Consumer Price Index) unless approved by a referendum.
- Requiring increased employee contributions for pensions and health insurance.
- Limiting union contract duration to one year, and freezing wages when a contract expires until a new contract is settled, even if the old contract provided for annual step increases.
- Revoking the collective bargaining rights of faculty and academic staff of the University of Wisconsin system (reversing the 2009 law).

Faculty at technical colleges and clerical and blue-collar University of Wisconsin system employees would not lose collective bargaining rights entirely under the Walker bill. But the bill's other provisions weakened their unions considerably. Walker's bill exempted police, firefighters, and state troopers, thereby rewarding the support that some public safety unions provided to Walker during the 2010 campaign. Leaders of the Milwaukee police and firefighter unions appeared in an ad supporting Walker, and the state troopers union endorsed him.[29] But the bill applied to most state and municipal workers, including college and university employees.

The anti-union provisions of the Walker bill were radical. Previous U.S. labor-relations

statutes did not require unions to win a new representation election each year. Indeed, the 1935 Wagner Act had no union decertification provisions, and the NLRB refused to accept decertification petitions.[30] The 1947 Taft-Hartley Act allowed for decertification elections but required a petition signed by at least 30 percent of the bargaining unit members. The Walker bill went far beyond the anti-union Taft-Hartley Act by making union decertification automatic after one year unless the union ran another successful organizing campaign.

The requirement in the Walker bill that a union win the votes of 51 percent of the bargaining unit, rather than a voter majority, posed two barriers to union victories in representation elections. The 51 percent requirement, though extremely unusual, was the lesser barrier. The Railway Labor Act (RLA, 1926) established majority support as the standard for winning representation rights. In most U.S. elections for public office, a mere plurality of the vote suffices for victory.

More important, the Walker bill required that the 51 percent be of eligible, not actual voters. The bill therefore effectively counted abstentions as votes against union representation. Walker would not have been elected governor had this standard applied to the November 2010 Wisconsin election. He received 1,128,941 votes, according to the state's Government Accountability Board (GAB).[31] Wisconsin's voting age population at the time of this election, GAB reported, was 4,372,347.[32] Thus, 25.8 percent of the eligible voters supported Walker—more than the 23.0 percent received by his Democratic opponent, but far less than the 50.6 percent who did not vote.

Requiring a majority of eligible voters, not of those voting, in union representation elections is unusual but not unprecedented. The NLRB has consistently granted union certification based on a majority of voters, and public-sector bargaining statutes and administrative agencies had followed this precedent before the Walker bill. But before May 2010, the National Mediation Board (NMB), labor relations coordinator for the railroad and airline industries, required that unions win a majority of eligible voters to be certified under the RLA. In May 2010, the NMB ruled that unions must only win a majority of voters, and the courts upheld this rule.[33] The Walker bill essentially adopted the unusual pre-2010 NMB policy, with the added requirement of a 51 percent vote rather than a simple majority.

The ban on dues checkoff was also unusual. In June 1941, the National Defense Mediation Board ordered a defense industry employer to provide dues checkoff.[34] In June 1942, the National War Labor Board adopted a maintenance-of-membership policy, usually implemented through dues checkoff, for any union agreeing to a no-strike pledge and to increase war production.[35] Since that time, private-sector labor agreements commonly include dues checkoff; the practice later became widespread in the public sector, too.

Restricting the scope of bargaining to base wage rates, and banning wage increases exceeding the Consumer Price Index (CPI) unless approved by a popular referendum, drastically curtailed the ability of unions to deliver tangible benefits to their members. It also left important decisions related to employee benefits, work hours, overtime, seniority, and grievance procedures to the unfettered discretion of public employers.

The Walker bill's provisions for automatic decertification after one year, counting abstentions from certification elections against the union, limiting union funding by banning dues checkoff, and severely restricting the scope of bargaining threatened the survival of most public-sector labor unions. It is not surprising that this fierce attack on unions provoked a strong response from unions and their allies.

Unions and their supporters immediately responded to the Walker bill with massive protests at the Wisconsin state capitol.[36] "The fury among thousands of workers, students, and union supporters rose to a boil on Thursday,"

one contemporaneous account noted, "as state lawmakers prepared to vote on landmark legislation that would slash collective bargaining rights for public workers."

> Protesters blocked a door to the Senate chambers. They sat down, body against body, filling a corridor. They chanted "Freedom, democracy, unions!" in the stately gallery as the senators convened. Then the surprising drama in Madison this week added a new twist: the Democrats disappeared.[37]

Walker included his collective bargaining proposal in a fiscal bill, and at least 20 state senators needed to be present for votes on fiscal matters. But the state senate had only 19 Republicans. The Democrats prevented a vote by disappearing for three weeks. But on March 9, Republicans stripped the fiscal matters from the bill and passed the measure in the state senate without the presence of any Democrats.[38] Two days later, Governor Walker signed the collective bargaining bill into law.[39]

A county judge halted implementation of the legislation. A legislative committee, the judge stated, violated Wisconsin's open meetings law when approving the bill.[40] With the matter headed for the closely divided Wisconsin Supreme Court, an April 5, 2011 election to the Supreme Court effectively became a referendum on the law, drawing unusually high voter turnout.[41] The conservative candidate won the election.[42] On June 14, 2011, the Wisconsin Supreme Court ruled by 4–3 that the open meetings law did not apply to legislative committees. It ordered the publication and implementation of Walker's law.[43] The act was published on June 28 and took effect as 2011 Wisconsin Act 10.[44]

The Wisconsin battle then turned to recall elections. Wisconsin law precludes recall elections until officials are at least one year into their terms. Officials elected in November 2010—Governor Walker, members of the state assembly, and half the members of the state senate—were therefore not subject to recall elections until January 2012 at the earliest. But several recall elections in summer 2011 involved state senators elected in November 2008. Democrats gained two senate seats in recall elections on August 9, 2011, but they needed three seats to gain control of the chamber.[45] On October 10, Democrats announced that a drive to recall Governor Walker would begin on November 15.[46] The outcome of this recall drive was not known at press time.

Wisconsin Act 10 had immediate consequences for higher education unions. The University of Wisconsin Teaching Assistants' Association—the first TA union in the U.S. to win a contract (1970)—voted in August 2011 not to seek certification under 2011 Wisconsin Act 10, stating that the act prevented effective operation of their union.[47]

The Madison Area Technical College Part-Time Teachers' Union proposed shifting from a labor union to an employment agency. The union proposed to take over many administrative functions for the college, "including hiring part-time faculty, assigning courses, managing pay and benefits, providing professional development, certifying teachers and completing evaluations."[48] But the college administration rejected the proposal.

Faculty on two University of Wisconsin (UW) campuses voted for union representation by the American Federation of Teachers after the 2009 bargaining law was passed but before Walker's bill was introduced. Faculty at five more UW campuses—and academic staff, including contingent faculty, at one UW campus—voted to unionize during the period between bill's introduction and the Wisconsin Supreme Court ruling.[49] But implementing Wisconsin Act 10 effectively nullified these union representation election victories by taking away employee bargaining rights.

OHIO: LESS NATIONAL ATTENTION, BUT ALSO RADICAL

Before 1983, Ohio law left public-sector bargaining largely unregulated, but many public

employees bargained collectively. In 1974, for example, the University of Cincinnati faculty voted to unionize.[50] It soon became one of the earliest faculty groups at a doctoral institution with a collective bargaining contract. Ohio enacted a relatively pro-union bargaining law in 1983, and public-employee groups too weak to win contracts in the absence of statutory protection could organize.[51] Ohio did not amend its 1983 law fundamentally for almost 28 years.

Administrations at two state universities eliminated faculty committees dealing with budget issues after faculty voted for representation by the American Association of University Professors (AAUP) at the University of Akron in 2003 and at Bowling Green State University in 2010.[52] In January 2011, the Bowling Green administration urged Ohio's new Republican governor to incorporate the *Yeshiva* doctrine into a major bill, SB 5, amending Ohio's public-sector bargaining law.[53] As introduced on February 1, 2011, SB 5 banned collective bargaining by state employees, including state institutions of higher education.[54] An amendment allowed bargaining but still weakened unions.

The 1983 law allowed, but did not require public employers to bargain with unions representing supervisors or managers. But only faculty members serving as department or division heads were counted as supervisors. The amended version of SB 5 greatly expanded this category to include "any faculty member or group of faculty members that participate in decisions with respect to courses, curriculum, personnel, or other matters of academic or institutional policy are supervisors or management level employees."[55] SB 5 also provided that

> any faculty who, individually or through a faculty senate or like organization, participate in the governance of the institution, are involved in personnel decisions, selection or review of administrators, planning and use of physical resources, budget preparation, and determination of educational policies related to admissions, curriculum, subject matter, and methods of instruction and research are management level employees.[56]

SB 5 effectively applied the *Yeshiva* doctrine to faculty in Ohio's public colleges and universities. Other provisions of SB 5:

- Banned public-employee strikes, and imposed strike penalties. The 1983 law had provided the right to strike to most public employees other than public safety employees.
- Prohibited public employers from bargaining about employer pension contributions, privatization, or staffing levels.
- Limited bargaining about health insurance benefits to the amount of the premium paid by the employer, and prohibited employers from paying more than 85 percent.
- Banned fair share agreements.[57]

SB 5, unlike the Walker bill, significantly restricted the bargaining rights of police and firefighters, by expanding the definition of supervisors and eliminating binding interest arbitration. SB 5 also gave voters the right to overturn through a referendum any local government collective bargaining agreement requiring a tax increase.

On March 30, 2011, Republican Governor John Kasich signed SB 5 into law. There were fewer protests against SB 5 than against the Wisconsin bill.[58] But labor unions spent $25 million and mobilized more than 4,000 volunteers to overturn SB 5 in a referendum campaign.[59] On November 8, 2011, 62 percent of Ohio voters rejected SB 5 in a landslide result.[60] This vote preserves Ohio's relatively pro-union 1983 law, assures that *Yeshiva* does not apply to faculty at public colleges and universities, and averts SB 5's strike ban and limitations on the scope of bargaining. Public employees and labor unions achieved a significant legal and political victory; Tea Party Republicans endured a major setback.

BEYOND WISCONSIN AND OHIO

Early in 2011, it appeared that other states would severely weaken public-sector labor unions. "Nearly half of the states are considering legislation to limit public-employees' collective bargaining rights," noted a news account, "A number of states are considering bills that would limit unions' ability to collect dues from public employees...[P]roposals to roll back pensions are gaining steam."[61]

Some bills applied only to employees of K–12 schools or city governments, but others applied to employees of public colleges and universities. New Jersey enacted S 2937, which increased pension contributions of public employees, including college and university faculty and staff; eliminated cost of living adjustments in these pensions; and required employee contributions for health insurance premiums.[62] Some Democrats joined Republicans in supporting the bill, to the dismay of unions.[63] The legislature approved the bill on June 23, 2011, and Republican Governor Chris Christie signed it soon after. Unions condemned the law for removing health insurance benefits from the scope of bargaining for four years while a new state panel implemented changes in public-employee health plans.[64]

Many other anti-union bills of 2011 affecting higher education were moderated or defeated:

- Florida: In 1969, the Florida Supreme Court interpreted the right-to-work provision of the 1968 Florida constitution as granting public employees the same collective bargaining rights as private employees, except for the right to strike.[65] This ruling limited the potential for anti-union legislation. Still, on February 7, 2011, a Republican state senator introduced S 830, which banned dues checkoff and required unions to obtain permission every year before using an individual's union dues for political purposes. The Florida House passed a similar bill, and Republican Governor Rick Scott lobbied Republican state senators to approve S 830. But unions persuaded some Republicans to join Democrats in opposing the bill, which died in the Florida Senate on May 7, 2011.[66]
- Nebraska: A bill limited the scope of bargaining and reduced the power of a state agency dealing with labor disputes. A compromise, adopted on May 18, 2011, withdrew the scope of bargaining provisions and made a smaller reduction in the agency's power.[67]
- Connecticut: Democratic Governor Dannel Malloy proposed reclassifying department chairs as managerial employees with no collective bargaining rights. But faculty union objections led a legislative committee to reject the proposal in April 2011.[68]
- Maine: LD 309 would have replaced exclusive bargaining rights for public-employee unions winning a majority vote in a representation election with members-only union contracts.[69] The bill was abandoned in June 2011.

The anti-union tidal wave of 2011 affected labor law, though less than many observers expected at first. The aggressive attacks on public-employee unions mobilized the Democratic Party base.[70] The massive demonstrations and recall campaigns in Wisconsin and the referendum campaign in Ohio probably deterred anti-union politicians in other states.

CONCLUSION: PROBLEM OR SOLUTION?

Many Republicans asserted that public-employee unions caused fiscal problems of state and local governments from 2009 to 2011. Unions, they claimed, raised public-employee compensation above that of private-sector employees, and resisted cuts in compensation in tough times. But scholarly studies challenge the claim that public employees are overpaid. "If anything," notes one study, "public employees are underpaid relative to their private-sector counterparts. While public-sector benefits are higher than private-sector counterparts, total compensation (including health care and retirement benefits) is lower than that of comparable private sector employees."[71]

Accurate comparisons between public and private sector compensation, another study argues, need to control for education and hours worked per year. Public employees, on average, are better educated than private-sector employees, but they tend to have longer vacations and more paid holidays. Adjusting for education and annual hours worked, the study found, hourly total compensation (including benefits) was 4.8 percent *lower* for public employees in Wisconsin than for comparable private employees. Public-sector compensation especially lagged for employees with a bachelor's, master's, or professional degree.[72]

No evidence exists that public-employee unions caused the current large government budget deficits. States *with and without* public-sector bargaining had such deficits. Nor had public-employee compensation increased significantly in the years before 2008. "Over the last 20 years," one study showed, "the earnings for state and local employees have generally declined relative to comparable private sector employees."[73]

The budget problems arose primarily for reasons unrelated to public-sector bargaining. Income and sales tax revenues fell due to the severe business cycle downturn, while property tax revenues fell due to the decline in real estate values. Public-sector defined benefit pension plans had adequate funding in 2007; the recent funding problems of many of these plans stemmed from the swooning stock market.[74]

Eliminating public-sector bargaining, some politicians argue, is a quick fix for budget problems. Employers can cut compensation more easily when they can act unilaterally. But public employees did not cause these problems. Any immediate savings from unilateral employer actions must be balanced against long-term cost of undermining the morale and commitment of outraged public employees. A central lesson of organizational behavior is that people who participate in decision-making are more willing to cooperate in implementing that decision. Collective bargaining helps obtain the consent of employees to the terms of employment. Boosting morale via this consent can substantially influence productivity, particularly where the speed of an assembly line does not control work pace and where the quantity of output is often hard to measure. Public-sector bargaining is a solution, not a problem.

NOTES

[1] For more extensive reviews, see Saltzman 1998, 2000, 2001, and 2006.

[2] Saltzman, 1998, 2001, 2006.

[3] *NLRB v. Yeshiva University*, 444 U.S. 672 (1980).

[4] *New York University,* 332 NLRB 1205 (2000).

[5] *Brown University,* 342 NLRB 483 (2004).

[6] *New York University,* 356 NLRB No. 7 (slip opinion, 2010) at 1.

[7] Schmidt, 2011.

[8] Carroll University since July, 2008.

[9] *Carroll College and UAW*, 345 N.L.R.B. 254 (2005) at 255-256.

[10] *Carroll College v. NLRB*, 558 F.3d 568 (D.C. Circuit, 2009) at 573.

[11] Reilly, 2001, 15.

[12] Jaschik, June 2, 2011.

[13] State of Hawai'i Constitution, Article XII, Section 2, quoted in Najita, 1978, 3.

[14] *Atkins v. City of Charlotte*, 296 F. Supp. 1068 (W.D.N.C. 1969).

[15] NC GS §95-97, repealed by Session Laws 1998-217, s. 26.

[16] NC GS §95-98.

[17] Saltzman, 1985, 1986, 1988.

[18] Greenhouse, September 16, 2011.

[19] Greenhouse, November 23, 2011.

[20] RealClearPolitics, 2010.

[21] Ballotpedia, 2010.

[22] Legislative information: Ballotpedia, 2010. Governor information: RealClearPolitics, 2010.

[23] Lakoff, 2011.

[24] Greenhouse, January 4, 2011.

[25] *The Economist*, January 8, 2011, 9.

[26] Quoted in Saltzman, 1986, 10.

[27] Kniffin, 2011.

[28] Davey and Greenhouse, 2011.

[29] Holan, 2011.

[30] Krislov, 1956.

[31] Wisconsin Government Accountability Board, December 8, 2010.

[32] Wisconsin Government Accountability Board, October 20, 2010.

[33] *Air Transport Association of America v. National Mediation Board*, 719 F. Supp. 2d 26 (2010).

[34] Lichtenstein, 1982, 66.

[35] Ibid., 79-80.

[36] Davey and Greenhouse, February 17, 2011.

[37] Davey and Greenhouse, February 18, 2011.

[38] Davey, March 10, 2011.

[39] Sulzberger, 2011.

[40] Davey, March 19, 2011.

[41] Davey, April 7, 2011.

[42] Davey, April 8, 2011.

[43] *State of Wisconsin ex rel. Ozanne v. Fitzgerald*, 798 N.W.2d 436 (2011).

[44] 2011 Wisconsin Act 10, accessed online on December 11, 2011, at: http://docs.legis.wisconsin.gov/2011/related/acts/10.pdf.

[45] Davey, August 11, 2011.

[46] Davey, October 10, 2011.

[47] Jaschik, August 22, 2011.

[48] Ziff, 2011.

[49] American Federation of Teachers, May 13 and May 18, 2011.

[50] AAUP University of Cincinnati.

[51] Saltzman, 1988.

[52] Stripling, 2010.

[53] Troy, 2011.

[54] Rockwell, 2011.

[55] Ohio R.C. 4117.01(F)(2).

[56] Ohio R.C. 4117.01(K).

[57] Rishel, 2011.

[58] Greenhouse, April 1, 2011.

[59] Maher, 2011.

[60] Tavernise, 2011.

[61] Simon, 2011.

[62] Clemmensen, 2011.

[63] Perez-Pena, 2011.

[64] Megerian, 2011.

[65] *Dade County Classroom Teachers' Association v. Ryan*, 225 So. 2d 903 (1969).

[66] Greenhouse, April 30, 2011; Florida Legislature—Regular Session—2001: History of Senate Bills at 87. Accessed online on December 15, 2011, at: http://www.leg.state.fl.us/data/session/2011/citator/Final/senhist.pdf.

[67] Berrett, 2011.

[68] "Connecticut Lawmakers Scrap Faculty-Reclassification Measure," 2011.

[69] 125th Maine Legislature, Second Regular Session, LD 309. Accessed online on December 15, 2011, at: http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP0251&item=1&snum=125.

[70] Silver, 2011.

[71] Lewin, et al., 2011, 2.

[72] Keefe, 2011.

[73] Bender and Heywood, 2010, 3.

[74] Lofaso, 2011.

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