San Francisco Bay Area transit workers and supporters hold a safety rally on June 25, 2013, the day workers voted to strike after their contract expired on June 30.
The Great Recession struck with ferocity in 2009 just as public employees, for the first time, became the majority of union members in the United States. The coincidence was significant. In the climate of fear that accompanied the economy’s implosion, longtime opponents of unionism saw an opportunity to go on the offensive against what was now the largest sector in organized labor. And take the offensive they did. The battle to roll back public sector unionism has been going on for decades, but suddenly it erupted with a new ferocity in one-time union states like Wisconsin and Michigan. As the dust from the first round of these battles settles, both public sector unions and the labor movement as a whole are facing a deteriorating situation. If the attack on public sector labor is not blunted in the next few years, organized labor’s largest stronghold risks being outflanked and rolled back, with devastating consequences for both the labor movement and the nation.

Targeting the Public Sector “Elite”

The Great Recession plunged government workers’ unions into a situation they had not experienced before. It was not a question of stalled union growth or holding ground against the privatization movement—issues unions confronted during the fiscal crisis of the 1970s. Instead, labor now faced a catastrophic economic contraction that radically altered the balance of power in public sector labor relations and offered antiunion forces an unprecedented opportunity.

The crisis allowed antiunion forces to open up a new line of attack.¹ Over the years, critics had tried out a series of arguments against public sector collective bargaining. In the early 1970s, the antiunionists such as the libertarian Sylvester Petro renewed an argument that dated back to the years following the ill-fated Boston Police Strike of 1919, alleging that public sector collective bargaining would compromise the very sovereignty of government, allowing unions to usurp a share of the government’s powers. A few years later, the benignly named yet staunchly antiunion Public Service Research Council alleged that public sector collective bargaining would lead to a never-ending cycle of government-paralyzing strikes. Then, in the late 1970s, antitax crusaders like Howard Jarvis came to the fore blaming government unions for driving up tax rates. In the 1980s, the National Right to Work Committee focused its attack on the union security agreements won by strong unions of state and local workers, claiming that any contracts that required government workers to pay for the cost of collective bargaining were an infringement on workers’ rights to freely associate. By the 1990s, antiunionists in the education reform movement were blaming unions and collective bargaining for the poor state of many urban schools. Deflecting these successive attacks, public sector unions largely held their own by becoming deft enough in their use of political influence to preserve the status quo.² But the Great

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Recession allowed antiunionists to deploy a potent new argument. They contended that unionized government workers now constituted an “elite” whose pay and pensions were not sustainable in a world of rapidly diminishing expectations, lost benefits, and wage stagnation among private sector wage earners.3

The Great Recession allowed antiunionists to [argue that] government workers constituted an “elite” whose pay and pensions were not sustainable.

The new attack on public sector labor burst into view two years into the Great Recession. In 2010, financier and publisher of U.S. News & World Report, Mort Zuckerman, took to the pages of his magazine to claim that the United States had devolved into “two Americas,” one of which worked in the private sector, the other for government. “Millions of public workers have become a kind of privileged new class—a new elite, who live better than their private sector counterparts,” he wrote. “Public servants have become the public’s masters.”4 As a representative of the Wall Street wing of the Democratic Party, Zuckerman was simply restating a view that conservative Republican governors were promoting. Indiana’s Gov. Mitch Daniels asserted that government workers were “a new privileged class in America.” “It used to be that public employees were underpaid and over-benefited,” echoed Minnesota Governor Tim Pawlenty. “Now they are over-benefited and overpaid compared to their private-sector counterparts.” A host of like-minded journalists, ideologues, and academics added their voices to the “two Americas” argument with books that claimed public sector unions were fleecing taxpayers and bankrupting the nation.5

The economic crisis began to shape a mainstream consensus around the proposition that public sector union contracts had become too expensive, and that unsustainable and under-funded union-won pension plans were undermining the finances of cities and states.6 With the political wind at his back, New Jersey’s Republican governor Chris Christie insisted that disciplining unions was a simple question of numbers. “At some point,” he argued, “there has to be parity between what is happening in the real world and what is happening in the public sector world.”7 Democrats too invoked the “real world” as they distanced themselves from their public sector allies. “We would always like to fund everything with all the money in the world,” echoed New York’s Democratic governor Andrew Cuomo, “but we live in the real world.”8

As public opinion seemed to turn against public sector unions, some predicted that whatever solidarity existed between public and private sector unionists would soon dissolve. In a Wall Street Journal editorial called “Labor’s Coming Class War,” William McGurn argued that private sector workers were experiencing a “new awakening” that would lead them into conflict with their comparatively more secure colleagues in government service whose superior benefits they were subsidizing with their tax dollars. To be sure, some evidence of conflict did emerge. Democrat Steve Sweeney, the president of the New Jersey state senate and an Ironworkers union official, sided with Gov. Christie at key points in the governor’s confrontation with New Jersey’s public workers. Similarly, Gary LaBarbera of the Building and Construction Trades Council of Greater New York supported Gov. Andrew Cuomo in his efforts to pressure New York’s public workers into concessions.9 Conservatives celebrated these developments. They had long predicted an eventual schism between public and private sector workers, whose aims, they contended, were ultimately incompatible.

The ferocity of the attack on public sector collective bargaining caused unionized workers in the public and private sectors to close ranks more often than to divide.

Nonetheless, an all-out conflict between public and private sector unions never emerged. There are at least two reasons for this. First, most putatively, private sector unions long ago diversified into the public sector. Unions such as the Service Employees, Teamsters, and Communications Workers have large government employee memberships. Not surprisingly, these unions have no interest in a new “class
war” that would divide their own organizations. Second, the ferocity of the attack on public sector collective bargaining caused unionized workers in the public and private sectors to close ranks more often than to divide. When union opponents in Wisconsin, Ohio, and Michigan seized control of governorships and state legislatures, and aggressively pressed their advantage to strip public sector workers of their rights to bargain, unionized workers across the spectrum fought back. In Ohio, a coalition including both public and private sector unions was able to overturn Gov. John Kasich’s antiunion law, SB-5, in a November 2011 referendum—one of the few labor victories that year.

**Wisconsin, Michigan, and Beyond**

If the crisis did not successfully split organized labor, it did expose how thin and demoralized labor’s ranks have become overall. Coming only twenty-one months apart, the signal losses in Wisconsin and Michigan knocked labor back on its heels. The weakening of public sector unions in those states threatens to transform their political character and has emboldened antiunion drives elsewhere.

When Gov. Scott Walker of Wisconsin signed Act 10 into law in March 2011, stripping most government employees of their collective bargaining rights, 50 percent of his state’s government workers were in unions. By the end of 2012, the percentage dropped to 37, representing the loss of fifty thousand dues-paying union members. This loss has already begun to change Wisconsin, which had historically boasted unionization levels well above the national average. Wisconsin’s union density plummeted from 15.2 percent at the time Walker signed his bill to 11.2 percent at the end of 2012, the sharpest drop in any state during that period. Such losses seem sure to impact the unions’ electoral power in coming elections, no matter how adept labor’s turnout machine. Voters from union households had constituted 32 percent of the vote in Wisconsin in the 2000 election, but by 2012, the number had fallen to 21 percent.

The “right-to-work” legislation signed into law by Michigan governor Rick Snyder in December 2012 did not specifically target government workers, but they are likely to feel its effects first and most heavily. (Autoworkers’ contracts do not expire until 2015.) Michigan’s public sector was more densely organized than Wisconsin’s was at the time Act 10 went into effect. Fifty-five percent of Michigan’s public employees were unionized when Snyder signed his law (as compared with 12 percent of the state’s private sector workers). This ranked Michigan tenth in public sector union density (New York ranked first with 71 percent). Michigan will almost certainly fall much farther down the list in the coming year.
Moreover, Republican legislators are considering another blow to union strength in public sector workplaces: a law that would remove unions’ exclusive right to represent workers. Such a law would force unions into an endless competition with each other within the same workplace.13

The antiunion victories in Wisconsin and Michigan have lent momentum to efforts in other states where Republicans control the governorship and the statehouse. Not content with the range of antilabor legislation already on the books in their state, North Carolina’s Republican legislators recently moved toward adding a “right-to-work” provision to the state constitution.14 Kansas’ legislators, meanwhile, have been working to eliminate dues check-off for teachers unions.15 “Right to work” advocates continue to advance their cause in Pennsylvania, New Hampshire, and other states.16 Meanwhile, federal “sequestration” has further weakened public sector unions by causing layoffs and furloughs. Altogether, these initiatives suggest a dark future for public sector labor.

A Watershed Moment

We have seemingly reached a watershed moment when two conclusions appear to be indisputable. First, a vibrant public sector labor movement will not be sustainable indefinitely with less than 7 percent of private sector workers organized. The fate of government workers’ unions increasingly hinges on whether labor can engineer a private sector union revival. Second, if public sector unions do not start defending themselves more effectively than they did in Wisconsin and Michigan, they will likely suffer more such defeats in the years ahead.

*The fate of government workers’ unions increasingly hinges on whether labor can engineer a private sector union revival.*

It is not just organized money that has given an advantage to the antiunion forces. Changes in our economy over the last few decades have begun to make some of organized labor’s tried and true arguments sound obsolete or anachronistic, and labor has been too slow to retool its approach for the new environment it faces.

During the 1960s and 1970s, as state after state legalized public sector collective bargaining, the chief argument of the union forces was straightforward: unions insisted that unless government workers enjoyed the same rights to organize and bargain that private sector workers had won with the Wagner Act, they would remain trapped in a form of second-class citizenship.17 Thus, when Memphis sanitation workers struck in 1968, they carried signs that read “Collective Bargaining Is the American Way,” in addition to their more famous “I Am a Man” placards. By demanding the same rights as private sector workers, public employees were able to claim the moral high ground. But the same argument no longer works today when government workers are six times more likely to be unionized than private sector workers, and typical public sector benefits now often exceed those enjoyed by comparable private sector workers.

What happened in Wisconsin provides a case in point. In its battle with Scott Walker, labor failed to defend public sector collective bargaining in ways that could appeal to the vast majority of Wisconsin voters—87 percent of whom do not themselves bargain collectively. Labor activists instead largely relied on what has become a ritualistic defense of unionizing and bargaining collectively as a right. “Yes, I said right. Something that cannot be legislated away,” wrote one Wisconsin activist during the battle to recall Governor Walker. “You cannot buy it because it is not for sale. It can’t be traded. It can’t be taken. It has already been bought and paid for with the blood of organizers that fought before we were born.”18 While such rights-based arguments resonate well among many union members, they translate poorly to the vast majority of unorganized workers. Indeed, they can be counterproductive. Not only do such arguments fail to address the concerns of voters (including a significant share of union voters) who worry that government workers’ exercise of union rights might come at taxpayers’ expense, but these arguments can at times also seem blind to the realities faced by the vast majority of private sector workers who currently lack a realistic prospect of improving their own
lot through unionization. Such workers doubt that the benefits gained by someone else’s union will ever trickle down to them.

The difficulty public sector unions face was recently illustrated in Los Angeles. In the mayoral elections held on May 21, 2013, it seems that union support might have hurt Wendy J. Greuel, the candidate supported by most public sector unions. Her victorious opponent, Eric Garcetti (who also received some labor support), used the LA Federation of Labor’s endorsement of Greuel against her. Garcetti argued that Greuel was supporting an unrealistic effort led by the LA Fed to raise the city’s minimum wage to fifteen dollars per hour. While insisting that he was also pro-worker, Garcetti claimed he would not be beholden to unions; his supporters meanwhile alleged that a $2 million donation to Greuel’s campaign by LA’s Water and Power workers’ union meant that she would never be able to “say no” to their demands. Whether or not union support was the deciding issue, the LA election illustrated how easily public sector unions can be framed as narrowly self-interested even in the most favorable settings.

The future of public sector unions will be determined by their ability to persuade nonunion voters that they have a material stake in the survival and expansion of unions.

To be sure, some of the luster was removed from the Chicago teachers’ victory in March 2013 when Mayor Emanuel announced the planned closing of fifty neighborhood schools in an effort to deal with declining enrollments and growing deficits. But the CTU has been fighting back in creative ways. It has reactivated the coalition of supporters it built in advance of its 2012 strike and demanded accountability from the financial industry players whose malfeasance helped trigger the Great Recession, which has placed such enormous strains on school funding in cities like Chicago. The union has called for the passage of a statewide financial transaction tax and reallocation of “tax increment financing” (a method of funding projects by borrowing against the future increase in property-tax revenues that results from public investments in improved infrastructure and the like). It has also demanded the renegotiation of “toxic” interest rate swaps in which the state and local governments were disadvantaged in pre-financial-crisis deals with banks. In these swaps, the banks exchanged fixed rate bonds for the variable rate bonds held by governments and then pocketed huge profits when the Federal Reserve lowered interest rates in response to the crisis, sticking taxpayers with higher-than-market
rates. According to the CTU, one deal between the Chicago Public Schools (CPS) and the Bank of America engineered before the crisis has left the CPS carrying a 5 percent rate while the bank walked off with a 0.42 percent rate. The CTU is demanding that the banks share the fruits of their financial manipulations, since taxpayer money helped prop them up during the worst of the recent crisis.

The CTU is not alone in following this path. Other unions have also begun shaping their bargaining demands in ways that forge win–win partnerships with elements of the larger community. Some of the more creative bargaining initiatives have demanded community restitution from large financial entities that manipulated financial markets. Interestingly, a number of unions have called specific attention to the costs of the LIBOR scandal in which sixteen of the world’s largest banks manipulated the London InterBank Offered Rate and made billions, while ordinary borrowers, including state and local governments, lost money. Their demand is that the offending banks make restitution to the government entities that were damaged by the manipulation.

One union taking a creative approach to bargaining in the wake of the financial crisis is Oregon’s SEIU local 503, which represents homecare, childcare, adult foster care, state workers, and university employees. Local 503 is pursuing a “common good” approach to their 2013 bargaining, in a strategy they call “In It Together.” Among their demands are a state cap on undergraduate tuition increases, the renegotiation of predatory interest rate swaps, and refusal to do business with any institution that will not renegotiate to market rates. Similarly, the ReFund Transit Coalition, a group of transit advocates, workers, and supporters in which the Amalgamated Transit Union plays a leading role is calling for city transit systems to try to claw back money they have lost due to the depredations of banks.

These are promising examples, but thus far, they are isolated experiments. We are still far from the fundamental rethinking of worker representation and collective bargaining necessitated by the historic transformations of work and the economy through which we are now living. Framing bargaining demands around the common good is a step in the right direction, and it should help public sector unions respond to an increasingly nonunion environment. But this shift in approach will require unions to think in creative new ways about how they frame their mission and represent workers. The way forward will not be easy. But one thing seems clear: unless public sector unions do a better job of defining and defending the common good, they can expect more defeats like the ones they have suffered since the advent of the Great Recession.

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Notes
1. For an overview of how, see Richard B. Freeman and Eunice Han, “The War against Public Sector Collective Bargaining in the U.S.,” Journal of Industrial Relations 54, no. 3 (June 2012): 386-408.
5. Steven Greenhut of the libertarian Pacific Research Institute contributed Plunder: How Public Employee Unions Are Raiding Treasuries, Controlling Our Lives, and Bankrupting the


23. Thanks to Stephen Lerner for providing background on these new initiatives.


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