ISSUE BRIEF

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Voluntary Union Representation: States Should Let Workers Choose Their Representatives

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Collective bargaining laws give unions an effective monopoly on many state and local government workforces.[1] They force the government to negotiate employment terms with the union, and all employees must accept that union's representation. Unions use this power to pressure state and local governments into accepting expensive contracts, which now threaten many cities with bankruptcy.

Collective bargaining should not operate this way. Unions can provide a collective voice for employees without controlling the government's workforce. State legislatures can accomplish this by making union representation voluntary.

Existing Law. Collective bargaining laws make unions the "exclusive representatives" of government employees. Unionized governments and their employees may only negotiate through the union—they may not agree to separate individual contracts. This gives government unions a legal monopoly on negotiating terms of employment.

Government employees have little say about who represents them. Once a union forms, it remains certified indefinitely in every state except Wisconsin and Tennessee. Consequently, most union members today are represented by a union that others chose decades ago.[2] These laws create serious problems for the government and many of its employees.

Inflated Costs. Unions' bargaining monopoly enables them to operate as labor cartels—forcing the government to employ workers on union terms.[3] Unions use this control over the government's workforce to redirect tax dollars towards employee compensation—and away from other services.[4]

Government unions have particularly driven up public-sector pension costs. In many states, government employees can retire in their mid-50s and enjoy a full pension for the rest of their lives. States now face between $1.4 trillion and $4.6 trillion in unfunded pension liabilities.[5]

A recent study estimated that each 10 percent increase in government union membership increased state per-capita pension liabilities by $1,400.[6] Government-employee pensions are squeezing state and local budgets, crowding out resources for other priorities.[7]

Runaway pension costs now threaten many cities with bankruptcy. San Bernardino and Vallejo, California, have already declared bankruptcy, and Illinois raised its state income tax by two-thirds to help cover rising pension costs.[8]

Taxes Paying for Union Operations. Government unions also use their leverage to get subsidies from the taxpayers. Most contracts give unions "release time," which allows union officials who also work for the government to perform union business while on the clock. Consequently, tax dollars—not union dues—pay for unions to negotiate contracts and file grievances. This frees union resources to spend on other activities, such as political activism. Nationwide, taxpayers pay government employees to spend 23 million hours a year working on union businesses at a cost of $1 billion annually.[9]

Subsidized Fundraising. Virtually every union contract deducts union dues from its members' paychecks and transfers the money to the

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union's bank account. This money funds union expenses and political activities. However, many citizens do not share these unions' political agendas. A publicly funded payroll system should not help unions collect money to fund their political activities.

Unaccountable Representatives. Collective bargaining laws also create serious problems for government employees. Forcing them to accept union representation leaves unions unaccountable for their performance.

Very few government employees ever voted for union representation—the vast majority were hired after their workplace unionized. Michigan, for example, passed its collective bargaining laws in 1965. Kansas did so in 1970. No one currently teaching in either Detroit or Topeka Public Schools voted in those elections.[10] Nonetheless, the Michigan and Kansas education unions represent every teacher in these districts. While these states' right-to-work laws make paying dues voluntary, they do not allow employees to opt out of union representation.

This leaves unions little incentive to represent their members well, and gives workers few ways to hold the union accountable. Legal barriers make filing decertification requests prohibitively difficult. A union that does a poor job representing employees will nonetheless remain their representative.

One-Size-Fits-All Contracts. Exclusive representation also forces all employees into one-size-fits-all collective bargaining agreements, which necessarily ignore individual preferences and performance.

Employees who would prefer a different mix of pay and benefits cannot negotiate them separately. New teachers at a public school, for example, might prefer higher starting salaries and less generous retirement benefits. Union negotiators, however, prioritize the interests of their most senior members who would not benefit from higher starting salaries. Current law forces new hires to accept a contract that ignores their desires.

Collective contracts also ignore individual hard work, typically instead basing raises and layoffs on seniority. The union contract for Rapid City, South Dakota, allows laid-off municipal employees to "bump" less senior employees out of their jobs.[11] Junior employees must forfeit their jobs to senior employees—no matter how hard the junior employees have worked. The Rapid City contract does not provide for performance raises either. One-size-fits-all union contracts hurt hard-working employees and reduce the incentive to perform.

They also hurt the quality of public services. In recessions, they force school districts to lay off excellent new teachers first, no matter how effective they are in the classroom. For example, Milwaukee Public Schools recognized Megan Sampson as their "Outstanding First Year Teacher" in 2010. A week later the

1. Most U.S. states have collective bargaining laws governing some or all state and local employees. A minority of states, such as Virginia and North Carolina, do not engage in collective bargaining with their employees.
2. James Sherk, "Unelected Unions: Why Workers Should Be Allowed to Choose Their Representative," Heritage Foundation *Backgrounder* No. 2721, August 27, 2012, http://www.heritage.org/research/reports/2012/08/unelected-unions-why-workers-should-be-allowed-to-choose-their-representatives.
3. States differ in how they handle impasse negotiations. Some states permit government employees to go on strike to pressure the government to accept their demands. Others use binding arbitration. Others permit the government to impose its final offer after lengthy negotiations.
4. Jeffrey Zax and Casey Ichniowski, *The Effects of Public Sector Unionism on Pay, Employment, Department Budgets, and Municipal Expenditures* (Chicago: University of Chicago Press, 1988), pp. 323–364, http://www.nber.org/chapters/c7915.pdf (accessed January 2, 2013).
5. The Pew Center on the States, "The Widening Gap Update," Issue Brief, June 2012, http://www.pewstates.org/uploadedFiles/PCS_Assets/2012/Pew_Pensions_Update.pdf (accessed January 2, 2013), and Andrew G. Biggs, "Public Sector Pensions: How Well Funded Are They, Really?" State Budget Solutions, July 2012, http://www.statebudgetsolutions.org/doclib/20120716_PensionFinancingUpdate.pdf (accessed January 2, 2013).
6. Sarah F. Anzia and Terry M. Moe, "Public Sector Unions and the Costs of Government," American Political Science Association 2012 Annual Meeting Paper, August, 2012, http://ssrn.com/abstract=2107862 (accessed January 2, 2013).
7. Governor Pat Quinn (D–IL) recently highlighted this problem with a Web video featuring an animated snake called "Squeezy the Pension Python," available online at http://www.youtube.com/watch?v=H62W9iLfKv4&feature=plcp (accessed January 2, 2013).
8. Monique Garcia, "Record Tax Hike Isn't Fixing Illinois' Problems," *The Chicago Tribune*, May 28, 2012, http://articles.chicagotribune.com/2012-05-28/news/ct-met-illinois-budget-20120528_1_pension-payments-income-tax-tax-hike (accessed January 2, 2013).
9. Mallory Factor, *Shadowbosses: Government Unions Control America and Rob Taxpayers Blind* (New York: Center Street Hachette Book Group, 2012), p 19.
10. Sherk, "Unelected Unions," Table 1.
11. Agreement between Rapid City and Local 1031, Council 59, American Federation of State, County and Municipal Employees, for the period January 1, 2010, through December 31, 2013, Article 10.

school district laid her off because she lacked seniority.[12]

Voluntary Representation. States can solve these problems by making union representation voluntary in state and local government. This would allow workers to continue with their union representation, choose a different union, or negotiate for themselves.

Voluntary representation would eliminate the union monopoly over the government's workforce. Unions could no longer prevent workers from accepting different terms of employment. This would help bring pension costs under control. If some teachers would agree to work until 65, the school board could hire them instead of union members wanting to collect a pension in their 50s. Eliminating unions' cartel powers would allow states to direct funds where they are needed—not where unions want them.

Unlike eliminating collective bargaining outright, voluntary representation allows employees who want union representation to keep it. Unions could continue to represent employee concerns to management. Unions would still provide a collective voice on the job, they simply would not have a monopoly on the government's workforce.

Voluntary representation would further free workers from one-size-fits-all contracts that may not suit their needs and enable them to hold unions accountable. Workers unsatisfied with their union representation could choose another union or negotiate separate individual contracts.

Prohibit Union Subsidies. State legislatures should also end taxpayer subsidies for union operations. This means stopping the payroll deduction of union dues and release time. Taxpayers should not subsidize union fundraising. Similarly, government employees should work for the public—not a union—while on the clock.

Choice is the Answer. Many states require government employees to accept union representation as a condition of employment. This gives unions significant control over the government's workforce. Unions have used this power to inflate government compensation at the expense of other services and to the detriment of taxpayers. Exclusive representation also forces workers into one-size-fits-all contracts that ignore individual needs while leaving unions unaccountable.

State legislatures should replace exclusive representation with voluntary representation. The government should allow its employees to choose anyone to represent them—their union, another union, or themselves. This would solve the problems that collective bargaining creates for government, while permitting a collective voice for workers who want it and forcing the union to be accountable to its members.

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12. Erin Richards and Amy Hetzner, "Seniority System Cuts Fresh MPS Teachers Amid Budget Crunch," *Milwaukee Journal Sentinel*, June 14, 2010, http://www.jsonline.com/news/education/96349689.html (accessed January 2, 2013).