

Unionization and collective bargaining in the public sector are relatively recent phenomena, essentially dating back to the second half of the 20th century. In Canada, only 12% of public-sector employees were unionized in 1960, compared to 70% today. In the United States, during the same period, the public-sector unionization rate went from 11% to 36%.¹

In Quebec, the right to collective bargaining was granted to public-sector employees in 1944 (the right to strike came later, in 1964) and to civil servants in 1965.² Among U.S. states, it is Wisconsin that was the first to grant collective bargaining rights to certain public-sector employees in 1959.³ Today, some thirty U.S. states allow collective bargaining with public-sector unions.⁴

CHALLENGING A "RIGHT"

The right to collective bargaining has therefore only existed in the public sector for half a century in the United States, and it is increasingly being challenged of late.

In New York, the Democratic governor wants to freeze civil servant salaries.⁵ In Wisconsin, Ohio and elsewhere, Republican politicians are trying to limit the right to collective bargaining in the public sector. This recent trend is explained in part by the budget situations of these states.

With the recent recession, almost all U.S. states have found themselves in the red. Their deficits amount to 20% of their general funds on average, as can be seen in Table 1.

Moreover, in the United States, the self-imposed balanced budget rules in place in many states are often stricter than those that exist in Canada.⁶ It is therefore not surprising to find that there is an urgent push to shrink budgets, especially by reducing the salaries and benefits that make up a large part of public-sector spending.

WISCONSIN

A Wisconsin bill elicited strong reactions and captured the media's attention earlier this year. The Democratic Senators had fled the state in order to deprive the Senate of the quorum required to hold a vote on the bill.

Table 1
Deficits of certain U.S. states
for fiscal year 2011

	Deficit (in billions of US\$)	Deficit as a proportion of general fund
New York	8.5	15.9%
Ohio	3.0	11.0%
Wisconsin	3.5	24.9%
States Total	130.0	19.9%

Source: Center on Budget and Policy Priorities, *States continue to feel recession's impact*, June 2011, p. 9.

The law that was finally adopted⁷ limits the right to collective bargaining to the matter of base salary for public-sector employees (except for public safety employees). Wages cannot increase faster than the inflation rate unless authorized by a referendum. The law sets employee and employer contributions to retirement plans at 50% for each party.

The law also forbids deduction at source for union dues. Public-sector unions were previously subject to the same certification and decertification rules as private-sector unions. They must now obtain the support of a majority of the members of a bargaining unit each year in order to continue to represent them.

1. "(Government) workers of the world unite!" *The Economist*, January 6, 2011.

2. Jean Boivin, "La négociation collective dans le secteur public québécois : une évaluation des trois premières rondes (1964-1972)," *Relations industrielles*, Vol. 27 (1972), No. 4, pp. 683 and 709.

3. Christian Schneider, "The Partisan Origins of Public-Sector Collective Bargaining," *National Review*, February 23, 2011.

4. State Net, Many States Already Restrict Collective Bargaining, March 8, 2011; Mary Wisniewski, "Factbox: Several states beyond Wisconsin mull union limits," *Reuters*, March 10, 2011. Interesting note: George Meany, the first president of the AFL-CIO central labour union, said in 1955 that it was "impossible to bargain collectively with the government."

5. Henry Goldman, "New York Voters Back Cuomo's State-Wage Freeze, Quinnipiac Says," *Bloomberg*, January 26, 2011.

6. Some of these rules are even written into the states' constitutions. See: National Council of State Legislatures, *NCSL Fiscal Brief: State Balanced Budget Provisions*, October 2010.

7. Wisconsin Legislative Council, *Act Memo: 2011 Wisconsin Act 10 – Budget Adjustment Act*, May 2011.

OHIO

A new law reforming collective bargaining in the public sector will be put before Ohio voters in a referendum on November 8 of this year. This law goes further than the Wisconsin law in certain regards; for one thing, it also applies to police officers and firefighters.⁸

The law forbids collective bargaining for some 40,000 public servants and 20,000 employees of public universities, in addition to removing the right to strike from 300,000 municipal and school employees. For the latter, it also limits the issues that can be included in a collective agreement, excluding in particular medical insurance and pension plans. Seniority will no longer be the most important criterion in determining which employees lose their jobs during staff reductions, nor in setting salaries, which will now be performance-based.

Finally, the law provides a new dispute-resolution mechanism during collective bargaining when there is an impasse between a union and a government agency. If the two parties, employer

and union, cannot come to an understanding, the best employer offer is applied. If a new collective agreement results in a tax increase, a referendum can be held to allow voters the opportunity to choose another offer.



A TREND THAT IS SPREADING ACROSS SEVERAL STATES

Several other U.S. states are also challenging the collective bargaining powers of public-sector unions. Bills to this effect have been adopted in Indiana, Arizona, Idaho, Michigan, New Hampshire, Oklahoma, South Carolina, Tennessee, Utah and Wyoming.⁹

The financial crisis and the recession exacerbated the precarious positions of public finances south of the 49th parallel. These changes to union powers have truly taken on symbolic value, especially in the State of Wisconsin, which was the first to authorize collective bargaining in the public sector half a century ago. We may now be witnessing an equivalent paradigm shift, but in the opposite direction.

8. Steven Greenhouse, "Ohio's Anti-Union Law Is Tougher Than Wisconsin's," *The New York Times*, March 31, 2011; Mary Wisniewski, *op. cit.*, footnote 4.
9. David Schaper, "Collective Bargaining Curbs Spread Across the U.S.," *NPR*, May 24, 2011.



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