

# WISCONSIN BUDGET



# Limits on Collective Bargaining

## **Education reform isn't a new or foreign trend in Wisconsin.**

The state was a school choice pioneer and one of the first to embrace charter schools in the early 1990s. Though major reform efforts have been on the back burner in recent years, topics like value-added analysis and teacher evaluation have kept education on the front page in the Badger State.

Even so, few could have predicted the events of 2011 and the impact that one Valentine's Day announcement would have across Wisconsin.

On February 14 of that year, newly elected governor Scott Walker unveiled the major components of his 2011–13 state budget. Most notably, he introduced a plan to address what his administration projected would be a \$3.6 billion deficit by limiting collective bargaining for certain public-sector employees through the Wisconsin Budget Repair Bill, known as Act 10. Within days, a storm of protest settled over the state capitol, one that reverberates still through the building's marble halls. The backlash echoed the antiwar and counterculture protests that had consumed Madison decades earlier.

Wisconsin's collective bargaining reform was by no means a pilot program for legislators across America. "Right-to-work" laws, which limit union influence in the public sector, were already prevalent across the South. The Wisconsin reforms quickly became a flashpoint, however. An Indiana plan to enact right-to-work laws soon after Act 10 led to a brief standoff that saw Democratic lawmakers crib from Wisconsin's experience and flee to Illinois in hopes of delaying their legislature's vote. When Michigan's lawmakers convened to pass right-to-work legislation in late 2012, they ignited a series of rallies that clearly had roots across Lake Michigan. While the application of Act 10 was limited to Wisconsin, its impact was felt across the nation.

**Wisconsin  
succeeds  
in  
cutting  
costs**

by CHRISTIAN D'ANDREA



## Battle Lines

More than 100,000 protesters made their voices heard between the February 14 introduction of Act 10 and June 14, when the Wisconsin state supreme court ruled the legislation legal and enforceable.

Opponents' chief target was the plan to remove collective bargaining agreements from all aspects of contract negotiations save for modest salary increases. The legislation allowed local school boards to make sweeping changes to address looming funding cuts as well as to introduce instructional reform that could improve outcomes across their districts. The proposal freed school districts to adjust employee work assignments without negotiating with the teachers union and promised to make objectives like merit pay, scheduling revisions, and tenure reform far more attainable.

A major sticking point was that the proposal would eliminate employee benefit negotiations for public school staff members. Local school districts could seek lower health insurance and pension costs by requiring higher employee contributions. Prior to the legislation, some districts paid the employee contributions as well as their own.

Announcement of the plan drew both immediate praise and criticism. Opponents argued that the legislation was a thinly veiled attack on unions. Supporters praised the proposal as necessary to avoid future debt issues like the ones their neighbors in Illinois were facing.

At the forefront of the battle were Wisconsin's teachers unions. Wisconsin Education Association Council (WEAC) president Mary Bell was one of the most vocal presences in Madison, rarely going a day without addressing fervent crowds of protesters. Leaders from Madison Teachers Incorporated and the Milwaukee Teachers' Education Association (MTEA) were outspoken critics as well. Busloads of educators from across the state staged "sick-ins" and filled the halls, foyers, and lawn of the state capitol.

"[WEAC has] agreed to all the economic concessions," Bell told PBS's Tavis Smiley two weeks after Act 10 was introduced. "Every single one of the economic needs of the state as he laid them out to balance the budget were agreed to in a conversation with ourselves, since he wasn't speaking with us, and that still isn't enough. He believes and maintains regularly that it's necessary to strip a certain category of employees, public employees in this state, of collective bargaining rights."

Bell's sentiments weren't shared by everyone, however. "We said it's time for government to go on a diet," said Republican state representative Robin Vos, who is now the Wisconsin Speaker of the House. "And that's exactly what we do in this budget.... It will show to people in Wisconsin



PHOTO COURTESY / CITY OF KAUKAUNA WISCONSIN

*Kaukauna, a city that educates more than 3,900 students in its public schools, quickly became Walker's shining example when it came to the benefits of his reform.*

and throughout the country that we are not afraid to make hard decisions." Vos was also a vocal critic of WEAC's role behind the scenes with Democratic lawmakers in Madison.

The intent of Act 10, according to the governor, was to enable districts to recoup the losses that were coming in the 2011–13 budget. Walker's plan called for a cut of 5.5 percent to revenue limits in education, effectively dropping the state's per-student funding by \$550. This reduced funding, argued proponents of the bill, could be offset at the district level by employee contributions to health-care and pension programs as well as savings gained by local school districts exercising greater autonomy over spending.



PHOTO / wisconsinprogressive.wordpress.com

Act 10 established a floor of 12.6 percent for the employee contribution rate in the state-administered health-insurance plan. This rate became a benchmark for those local districts that did turn to employee benefit contributions for income needed to close funding gaps. Districts also utilized other tools, including wage freezes, switching to higher-deductible health plans, and adjustments in salary schedules to help tighten finances in their schools.

***"Every single one of the economic needs to the state as [the governor] laid them out to balance the budget were agreed to."***

— Mary Bell

### Wrestling with Health-Care Costs

Responses to the passage of Act 10 varied widely across the state's 424 local school districts. Kaukauna, a city that educates more than 3,900 students in its public schools, quickly became Walker's shining example when it came to the benefits of his reform. The district required teachers and full-time education staff to begin paying the mandated 5.8 percent of their salaries toward their pensions and to cover 12.6 percent of the costs of their health-care coverage. The midsized district turned a \$400,000 deficit into a \$1.5 million surplus for the 2011–12 school year, thanks in part to the higher employee contributions. Those savings, and some timely retirements, helped the district recall 10 employees who had been laid off due to budget issues in the previous year. These funds also helped reduce class sizes across Kaukauna's elementary, middle, and high schools by two to six students per classroom.

La Crosse, a district with nearly 7,000 students, faced a budget decrease of \$7.7 million over the biennium. La Crosse had already turned to teacher contributions in previous years, requiring educators to make payments totaling 10 percent of their health-insurance premiums. As a result, the district was unable to glean the full financial effect of the legislation despite its commitment to cutting costs at the local level. With its insurance contract in place until 2012, the district was unable to shop for a new, less expensive plan and make up the shortfall by that route either.

La Crosse wasn't the only district that came up short. Brown Deer's savings covered only 80 percent of its funding reduction, although the retirements of 11 tenured teachers enabled the district to restore its budget by hiring less-expensive educators in their place. Staffing cost decreases helped some cities cope with the loss of state funding, but many districts used the collective bargaining freedom afforded by Act 10 to reap even greater savings.

Negotiating with insurers to lower health-care costs has been the most commonly used method of saving money. Most teacher contracts had long required districts to provide expensive health-insurance plans through the union-backed WEA Trust. Act 10 gave districts the option to open up their health-insurance offerings to a competitive bidding process. After a six-year span in which districts saw average annual insurance costs rise by more than 40 percent, school boards were able to shed expenses when potential insurers were forced to compete with each other.

Appleton, a district that serves more than 15,000 students, saved \$3.1 million in 2012 when WEA Trust matched



***“We said it’s time for government to go on a diet.”***

— Robin Vos

the lowest bid from an outside competitor. Hudson, a northwestern city with more than 5,000 students, saved at least \$1.1 million in one year by switching health and dental insurance providers. Even Madison, the epicenter of protests against Act 10, was able to save \$10 million by paring down the number of available insurers and plans for teachers and education staff in 2012–13.

In all, these savings stretch into the hundreds of millions of dollars annually for Wisconsin's school districts. A recent study by Robert M. Costrell and Jeffery Dean (see “The Rising Cost of Teachers' Health Care,” *research*, Spring 2013) found that aggregate district health-care costs were 13 to 19 percent lower in 2012 than they would have been in the absence of the Act 10 provisions, with two-thirds of the decline coming from reduced premiums and one-third from increased employee contributions.

### Districts Get Creative

Health-insurance changes weren't the only way that collective bargaining limits led to district savings.

Local reforms and benefit contributions that sapped take-home pay helped lead to a rash of retirements in Wisconsin schools. According to a survey administered by WEAC and the Wisconsin Association of School District Administrators, 3,318 educators chose retirement rather than return to their K–12 classrooms, 4.9 percent of the state's teaching corps. This was approximately 1.5 times the percentage of teachers who did not return in 2010–11.

Districts filled 1,688 open positions by either recalling teachers who had been served layoff notices earlier in the year or by hiring younger educators who commanded smaller salaries. The result was an overall reduction of 1,630 full-time teachers in the state.

Many, though not all, districts that had the opportunity to utilize the cost-cutting tools of Act 10 were able to reduce or eliminate debt thanks to a combination of employee contributions, teacher retirements, and health-insurance savings. Some, like Oconomowoc, had to go further in order to get back in the black.

The Oconomowoc School Board used the changes in collective bargaining requirements to push a reform that had never been seen before in Wisconsin. The city faced a budget shortfall of approximately \$500,000, even after incorporating benefit contributions from its staff. This posed a risk of increased class sizes in elementary schools and other cuts in a district of just over 5,000 students.



Rather than resort to tenure-based layoffs, the district unveiled a radical strategy at its high school. The school board reduced staff from 75 to 60 teachers while offering \$14,000 stipends for remaining teachers to take on extra classes. This meant that Oconomowoc High School teachers would have to teach four class blocks per day instead of three, but also kept class sizes stable. This move saved more



*Oconomowoc unveiled a radical strategy at its high school. The school reduced staff while offering stipends for remaining teachers to take on extra classes.*

than the half million dollars needed to bridge the budget gap. The district used the extra resources to bolster its funding in elementary and middle schools.

No longer required to subject districtwide changes to collective bargaining, Elmbrook used its new power to cut capital costs and restructure class schedules in order to restore its budget. Menomonee Falls and Greendale eliminated additional pay for extra duties and froze scheduled raises for teachers who had reached certain professional-development goals.

Other districts have used Act 10's tools to subvert old tenure practices and reward teachers based on their effectiveness in

the classroom. Three Wisconsin districts have started modest merit-pay programs in an effort to recognize their high-performing educators and potentially lure other strong teachers to their schools. Kaukauna used its \$1.5 million surplus from 2011–12 to create a \$300,000 merit-based bonus system for its 235 full-time teachers. Hartland-Lakeside and Cedarburg, two similarly small districts, are also working through the beginning stages of performance-based bonus systems. If these efforts are successful, and if these programs stand up to legal threats, then merit pay may potentially expand to other districts across Wisconsin.

### The Case of Milwaukee

Not every district jumped at the opportunities created by Act 10. The most notable counter-example comes from Milwaukee, home of Wisconsin's largest and most embattled school district. Milwaukee Public Schools (MPS) had traditionally been a target for reform efforts thanks to a history of low-performing schools, a seemingly insurmountable achievement gap between student groups, and a relatively high proportion of state funding relative to local aid.

Changes had been on the horizon for the 80,000-student district, and MPS and MTEA were one step ahead of the governor. As Walker's election loomed in September 2010, the district committed to a four-year pact with its teachers, the longest contract in modern Milwaukee history. That agreement covered a previous uncontracted year, extended through the end of the 2012–13 school year, and included raises that hovered around 3 percent for the final three years.

The contract also negotiated modest health-care contributions of 1 to 2 percent and a pay freeze. These changes saved an estimated \$45 to \$50 million between 2010 and 2012 over the prior agreement. With that pact in place, the district was able to delay the effects of Act 10. The hope was that legal and political challenges to the legislation

would eliminate or lessen the impact it had on their educators and administrators.

This proved to be a costly strategy for the district. Milwaukee was hit by a double-barreled funding reduction in 2011. Not only was state aid decreased, but the district also faced a loss of \$82 million in federal stimulus aid that expired that same year. This was a major blow to a district that was \$11.2 million in debt when budget talks began and anticipated a \$74 million gap for 2011–12.

Walker's budget left MPS and MTEA in a perilous situation. After fighting at the state capitol nearly every day over



***The intent of Act 10, according to Walker, was to enable districts to recoup the losses that were coming in the 2011-13 budget.***

"I've been in discussion with the teachers and the sentiment is we've already made significant concessions in our last contract," MTEA president Bob Peterson told the *Milwaukee Business Journal*.

As a result, more than 300 Milwaukee teachers lost their jobs. The 2011-12 school year brought a 7 percent reduction in staff in MPS while enrollment fell by 2 percent. Less than one year later, MTEA would support a bill to allow the district to renegotiate wage and benefit changes without falling under the collective bargaining provisions of Act 10. In March 2012, the state legislature granted MPS and MTEA a special 30-day negotiating window for salary and fringe benefit concessions in order to produce savings that could restore the district's education budget. Eventually, teachers agreed to forgo five days of pay to avoid layoffs heading into the 2012-13 school year.

Another major district rejected the Budget Repair Bill and chose to ride out an existing contract despite the threat of significant debt. The Janesville Education Association, which serves more than 10,000 students, voted unanimously to stick to its pre-2011 deal and avoid enacting any reforms despite a \$2.1 million deficit. This decision led to the elimination of 60 full-time jobs in the district.

With the 2012-13 school year coming to a close, MPS will soon be forced to make a decision on its next contract. The

a four-month period, they saw eye to eye with the governor on very little. Increased employee contributions alone would restore a significant chunk of their funding, however, approximately \$40 million in the first year. While it wouldn't be enough to reach the spending levels of 2010-11, it would give Milwaukee some flexibility in recalling the 519 teachers who had been served with layoff notices.

But to take advantage of higher employee contributions, MTEA would have to reopen its contract. After months of railing against Walker's plan, Milwaukee's teachers were hesitant to give up on their original pact with MPS. A July 2011 survey showed that 52 percent of the union's members were against reopening the contract despite the jobs that could potentially be saved.

uncertain fate of Act 10 will make this a complicated task. Dane County district judge Juan Colas struck down the law in September 2012, a ruling that was quickly appealed by Walker and the state of Wisconsin. A separate January 2013 decision in the Seventh Circuit Court of Appeals upheld the law. The status of Act 10 and its effects remain in limbo, waiting for a Court of Appeals response to the Colas ruling and, most likely, an eventual showdown over the legislation in the Wisconsin supreme court.

As of March 2013, the contract issue had yet to be settled in Milwaukee. MTEA has been rallying its members to support a one-year pact that would renew many of the components of the current MPS contract. There is some precedent for this: the Madison Metropolitan School District used the Colas ruling to negotiate a new contract with its educators in under a week's time last October, but the Milwaukee School Board appears to be more cautious about the effects of what a more authoritative ruling would ultimately mean for its pacts.

### **Taking Stock**

Act 10 empowered school districts to make significant changes in order to customize operations at the local level. It limited the amount of influence educators and their unions had over high-level decisions; it also may have helped some school boards better engage with their staff members.



***Janesville rejected the Budget Repair Bill and chose to ride out an existing contract, a decision that led to the elimination of 60 full-time jobs.***



Two years later, the adjustments that were made in both state aid and local authority have given rise to mixed feelings among some officials. The funding drop that necessitated Act 10's budget-saving tools is something that no education stakeholder would consider a good thing; no district wants to face cuts in what it can spend in the classroom. Expansion of local authority, however, helped districts consolidate power, customize education, and recoup some or all of the funding that was lost in the 2011–13 Wisconsin state budget. When Milwaukee-area superintendents gathered to discuss the policy shift this spring, they were quick to point out the benefits of a law that increased management authority without damaging their relationship with local teachers.

While increased employee contributions and the reduced scope of collective bargaining have affected educators negatively, one superintendent reported positive effects on the relationship between administrators and teachers. Hamilton School District superintendent Kathleen Cooke said the changes had afforded teachers a greater role in developing curricula and a greater impact on school-level decisions. Speaking to a crowd at a March 2013 Rotary Club of Milwaukee event, Cooke added, "Our staff members voted the district one of the best workplaces in 2012, after they had lost all of their retirement benefits, because of how they were treated during the crisis."

Now Wisconsin faces a new set of reforms that will build on the precedent of 2011. Walker's latest budget proposes a \$129 million general aid increase to K–12 education, but a freeze on property-tax limits suggests that this revenue will be used to replace a portion of local money rather than increase funding as a whole. Another \$64 million would be reserved for an incentive program that rewards high-performing school districts and aids struggling ones. Approximately \$73 million is slated for expanding school choice by bringing school vouchers to districts with failing schools.

As a result, budgets may be tight again, creating a new round of management challenges for school districts. If that scenario unfolds as expected, Act 10's provisions will be as important in 2013 as they were in 2011. This time, Wisconsin



PHOTO / MURANT TANER / GETTY IMAGES

*Not every district jumped at the opportunities created by Act 10. The most notable counter-example comes from Milwaukee, home of Wisconsin's largest and most embattled school district.*

school boards will have a cache of local reforms to consider. Big-ticket items like merit pay and scheduling changes have been limited mostly to the state's smaller districts, but these initiatives could be used more widely.

The focus in Wisconsin this spring and summer will undoubtedly be on statewide initiatives like an educator effectiveness program that grades teachers, the expansion of school choice, and the potential creation of a statewide charter authorizer. Flying under the radar will be the reform choices of the few creative school boards that are willing to make changes in order to reward and retain their best teachers and find ways to devote more money to the classroom.

How will Act 10 be remembered? Currently, the bill is closely linked with the four months of protest that brought hundreds of thousands of activists to the snowy lawn of the state capitol. That may change. If districts continue to make use of the opportunities Act 10 offers to operate more efficiently, it could spark Wisconsin's return as a national leader in education reform.

*Christian D'Andrea is policy analyst at the John K. MacIver Institute for Public Policy based in Madison, Wisconsin.*