



SOUTH CENTRAL FEDERATION of LABOR

AFL-CIO

Organizing for Justice in Our Communities

From your UNION LABOR NEWS

Union workers file Lawsuit against ACT 10

On February 14, 2011, former Republican Governor Scott Walker introduced union busting legislation, known as ACT 10. Initially, workers protested in communities throughout Wisconsin. The first in Madison consisted of approximately 50 protestors at the Governor's Mansion. The occupation at the State Capitol began that weekend, with the TAA and others there the first night. Workers from around the State came to the State Capitol, with crowds growing until it culminated into over 100,000 protestors in and around the State Capitol building. One month later, on March 11, the Republican Legislature and Governor Walker passed and signed the bill stripping away the rights of public sector workers. The law was designed to punish worker organizations that opposed Walker's policies, but protect organizations that supported him — setting up an unreasonable double standard for Wisconsin public employees and their unions. "Act 10" took away Wisconsin public workers' freedom to collectively negotiate over most work-related topics, except for base wages. It also required unions to vote every year to "reauthorize" their decision to form a union, with anyone who did not vote to be considered a 'no' vote.

But the Republicans plan was just beginning. They had already pitted workers against each other with ACT 10. They needed to continue to obfuscate the truth, use misdirection, and finalize their assault on the working class. On March 9th, 2015 a 'forced to work for less' (or 'right to work') bill was passed, attacking private sector workers, particularly those in the Industrial and Service sectors. But that wasn't enough. In 2017, Republicans repealed Prevailing Wage protections and Project Labor Agreements, which harmed the Building and Construction trades, and the local communities who were using them. And later, they even made it a criminal offence to enact Labor Peace Agreements, which impacted low wage workers in the Service Sector. The Republicans war on the working class, their 'divide and conquer' tactics, and their attacks on unions became a template for anti-union politicians and their billionaire masters throughout the country. It paved the way for further Federal attacks such as the conservative U.S. Supreme Court's decisions such as the Janus and Epic decisions. It took away the freedoms of workers and the rights of local governments, and harmed communities.

Republicans like Robin Vos like to state that repealing ACT 10 would bankrupt schools and local governments. What they don't tell you are the consequences of not repealing such an unjust law. ACT 10's detrimental effects to local communities are many. Collective Bargaining included bargaining over workplace conditions. That meant workplace safety, public safety, nursing ratios, classroom sizes, safety equipment, mandated hours, and more: all of which has a direct correlation to how the public is served by the people who are doing the work. Such workplace conditions save lives. But collective bargaining also saved money. Just one

committee alone, the Insurance Advisory Committee, saved taxpayers millions of dollars in one year and every year there after.

What happens when workers pay goes down, and benefits are diminished or taken away? What happens when retaliation, harassment, discrimination, and intimidation goes on without a strong union to expose it and root it out? Worker Morale goes down. Experienced workers retire early or move on. And jobs don't get done as well without experienced, well treated, empowered workers. "For over a decade, the deck has been stacked against educators like me," said Betsy Ramsdale, a teacher and co-president of the Beaver Dam Education Association. "Teachers and support staff work in partnership with parents to teach students about compromise and collaboration, but school districts aren't required to do the same. It's frustrating and demoralizing, and a huge reason Wisconsin doesn't have enough staff to meet student needs."

The stripping away of workers rights emboldened bad bureaucratic managers. Government corruption, favoritism, and nepotism have seeped into the workplace. But that's not all. Injury rates are not reduced when workers rights are stripped away. Workplace and public safety is jeopardized. Government transparency and accountability is weakened. And this has been going on and getting worse.

It's been over 12 years, and workers justifiably have had enough. "State-employed workers, such as graduate assistants like myself, should be guaranteed the same rights as public safety workers. We contribute so much to our communities, and we deserve a voice on the job," said Maddie Topf, a graduate assistant at University of Wisconsin Madison. "Legal action to restore collective bargaining rights to all state employees is one way to secure the livelihood of working people in Wisconsin," said Nina Denne, a graduate assistant at University of Wisconsin-Madison. They are co-presidents of AFT-Wisconsin's Teaching Assistants Association.

And Legal Action is exactly what was taken. On November 30, 2023, Wisconsin public workers — State, City, County, University, and School District workers — are supporting a lawsuit that was filed in the Dane County Circuit Court. If the outcome is appealed, it could go to higher level courts including the Wisconsin Supreme Court. It will likely take up to a year or longer to be resolved. The plaintiffs include AFSCME Local 47, AFSCME Local 1215, Teaching Assistants Association (TAA/AFT) Local 3220, SEIU Wisconsin, the Abbotsford Education Association (WEAC/NEA), the Beaver Dam Education Association (WEAC/NEA), and Teamsters Local 695. It's being filed now because of the unacceptable and dire situation that presently exists in Wisconsin's public service institutions since workers' freedoms were unconstitutionally denied. For instance, Wisconsin's education workforce is in crisis as educators leave the profession and fewer people enter teaching programs because of low wages and unequal pay systems, the conservation warden program being fraught with sexism and retaliation, and vacancy rates throughout the State. And for every worker who speaks up, there are countless others who have been silenced without a strong, union protection.

One worker who has spoken up is Ben Gruber, a conservation warden and President of AFSCME Local 1215, and a plaintiff in the lawsuit. "I worked for 13 years as a firefighter paramedic in Wisconsin, where I had the freedom to negotiate; however, when I became law enforcement for the Department of Natural Resources, I immediately lost my right to a voice on the job," said Ben, "Every single day, I am proud of the work we do to protect the public. We are an essential part of our state's public safety system, often working in dangerous conditions and making arrests miles away from any backup. We are certified as law enforcement by the same state board, but my co-workers and I are denied the same union rights enjoyed by other public safety personnel. It's time that public sector workers across Wisconsin have our freedoms restored to us." To Ben's point, the lawsuit challenges the constitutionality of ACT 10 which eliminated the freedom to engage in collective bargaining for most public sector workers. According to the lawsuit, ACT 10 unconstitutionally discriminates against most public sector workers, denying their freedom to negotiate with employers on

subjects beyond base wages and to be represented by a union without jumping through the hoops of burdensome annual recertification elections, where a no-show counts as a no-vote.

Unlike previous lawsuits challenging ACT 10, this lawsuit brings state law equal protection claims that have not previously been raised. The lawsuit spells out how Act 10 preserved collective bargaining rights for a narrowly defined group of “public safety” employees, but took them away from all others. A previous lawsuit was filed in federal court and made different legal claims. This is a state lawsuit: the question of whether all working people in Wisconsin should be guaranteed equal rights and freedoms under the Wisconsin Constitution — regardless of what kind of work we do — has not yet been answered in State Court.

Specifically, the legal argument is that Act 10 violates the states Equal Protection Clause of the Wisconsin Constitution (Article 1, section 1) by creating a new classification of employees which had never been recognized before. Act 10 disfavors “general” employees and severely impaired their equal protections.

There are no substantial distinctions between the ‘favored’ class of workers in the law and the ‘disfavored’ class of workers the law creates. There is no rational relationship to the stated budgetary objectives of the law – or to any other legitimate state purpose – and what the law does. The law is based on circumstances that only existed at the time of enactment. ACT 10 is not applied equally or consistently among employees who carry out what some would call traditional public safety functions – some are granted bargaining rights and some are not. While “public safety” employees have the right to negotiate over wages, benefits and working conditions, “general” employees are prohibited for negotiating for anything beyond a cost of living wage.

The Legal Remedy is to restore collective bargaining rights equal to “public safety” employees. That means removing the unfair annual recertification where a no-show equates to a no vote. If Robin Vos was held to the same standard, he wouldn’t be able to win another election. Restoring workers rights means to restore exclusive representation, collectively bargaining over wages, benefits (including contribution to health insurance premiums) and working conditions, and payroll dues deductions. “I’ve worked as a Building Service Technician for almost 17 years, helping maintain around 30 school buildings in Racine. My co-workers and I have lived and worked under Act 10 for twelve years now and have been forced to recertify our decision to organize a union each year. The end of Act 10 would mean that we would have a real say again in our retirement plans, healthcare and time off — without the threat of loss of our union every year.” said Wayne Rasmussen, a member of SEIU Wisconsin who works for the Racine Unified School District.

Winning this legal case means all Wisconsin public workers would regain the freedom to negotiate over all subjects, not just base wages. Once a union is formed, workers would be free to maintain their organizations and govern them democratically.

It’s apparent politicians like Robin Vos doesn’t share these values. He would rather spend time obtaining government funds for his own popcorn business than looking out for workers and advocating for union rights. This is why he and his ilk try to divide and conquer, to manipulate, to obfuscate, and to misdirect. And this is why Unions provide Solidarity and Support, Unity, democracy, better lives, and help create better communities. And that is what Unions need to do now more than ever before. As Larry Wedan, Secretary-Treasurer of Teamster Local 695 in Madison says, “The Teamsters Union stands shoulder to shoulder with our labor allies in the fight to secure collective bargaining rights for all workers. Wisconsin’s public sector workers deserve a voice and a seat at the table, to be able to bargain for good wages, benefits, and working conditions.”