PUBLIC-SECTOR UNIONS UNDER SIEGE

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ABSTRACT

Since the Great Recession of 2008, politicians in cash-strapped and debt-ridden states have increasingly promulgated the idea that public-sector unions are to blame for states' budget woes. Traditionally, public-sector unions have been able to rely on Democrats to shield them from aggressive Republican efforts to limit or eliminate them. However, legislative and executive actions taken in recent years have shown that this traditional political paradigm may no longer hold true. Debt woes have made scapegoating and targeting public-sector unions a bipartisan affair. The mechanisms through which public-sector unions have become embattled institutions can be classified into four categories: managerial, political, legal, and fiscal. In many ways, each of the mechanisms acts not alone, but in concert with the others. This article maps out the major mechanisms used within each of the four categories and maps how these disparate mechanisms have come together to put public-sector unions in an insecure position among politicians and the public.

INTRODUCTION

In the modern age, public-sector unions are an embattled and vulnerable institution occupying a precarious position in the public opinion realm. Simultaneously lauded for their protection of public employees and scapegoated for their burden on governmental budgets, the public-sector union is no stranger to divergent viewpoints. Since the Great Recession of the late 2000s, certain politicians dealing with budgetary woes have promoted the former over the latter. From a traditional perspective, one might expect Republicans to be aggressive towards public-sector unions and Democrats to be more defensive of them. However, legislative and executive actions taken in recent years have shown that the traditional political paradigm may no longer hold true. Scapegoating public-sector unions is now a somewhat bipartisan affair and to understand who is doing the targeting and why, it is important to analyze the current situation through managerial, political, legal, and fiscal factors.

Status of Public-Sector Unions[1]

Since 1983, overall union membership in the United States has declined from 17.7 to 14.6 million workers - a rate of 20.1 to 10.7 percent of the workforce. A breakdown of this data shows that the public-sector "…union membership rate (34.4 percent) [is] more than five times higher than that of private-sector workers (6.4 percent)" (U.S. Bureau of

1 All data in this section is from 2016 unless otherwise indicated.

Labor Statistics [BLS], 2017). Of the total 7.1 million public-sector union workers, those "…in education, training, and library occupations and in protective service occupations had the highest unionization rates (34.6 percent and 34.5 percent, respectively)" (BLS, 2017). However, from state-to-state, membership numbers and rates vary as widely as organizing and collective bargaining rights do. A lack of overarching federal legislation addressing public-sector unions is a product of both possible constitutional limitations and a legislative failure to coordinate and target legislative efforts due to legislators wishing to preserve the independence and control of their region's policies and processes. Thus, each state has great discretion to both curtail or empower their public-sector unions. For example, the gutting of public-sector collective bargaining rights in Wisconsin has led to a precipitous decline in public-sector unionization rates in the state from 50 percent of government workers in March of 2011, to only 36 percent by the end of 2012 (McCartin, 2013, p. 57). Yet in California, the state sees great benefit in strong, healthy public-sector unions and has vigorously defended its collective bargaining laws even before the 2016 Supreme Court in Friedrichs v. California Teachers Association (Garden, 2016). So the health, size, and impact of public-sector unionism cannot truly be quantified at the national level but must instead be looked at as a unique phenomenon in each state (Riccucci, 2011, p. 205).

FACTORS

Political

Politics permeates almost every level of interaction between public-sector unions, managers, and elected/appointed officials. Public-sector unions and unions favor Democrats, their traditional protectors, over Republicans. Since public-sector unions now comprise much of the traditional labor movement's strength, they are viewed as key contributors to the Democratic Party (Krinsky, 2013, p. 1105). Public-sector unions often boast about fundraising participation levels exceeding 80 percent of all members and their ability to organize grass roots voting blocs (Marlow, 1996, p. 3). So when Republican governors, Republican-controlled statehouses, and conservative advocacy groups like the American Legislative Executive Council (ALEC) hinder the ability of public-sector unions to raise funds, they see it as defunding the opposition.

While public-sector unions continue to be relatively strong, they differ from their private sector counterparts in their level of political engagement and vulnerability because "…politics exerts direct influences on the determination of employment conditions in the public sector" (Katz, 2013, p. 1035). Politicians, managers, and unions "spend significant time and resources trying to influence public opinion or public officials through lobbying or elections" (Katz, 2013, p. 1035). Specifically at risk is the bargaining power of public-sector unions, which can be denied by statute or by right-to-work laws. In instances when collective bargaining is not directly limited, its effectiveness can still be greatly reduced by voter-pushed tax cuts. Tax revenues play a role similar to that of profits in the private sector. Any reduction in the tax revenues of government means less flexibility and ability in negotiations, not a favorable circumstance for public-sector unions (Katz, 2013, p. 1034). As government revenue and dues-paying membership declines, often due in part to ruinous jurisdictional competition or rather "races to the bottom" in terms of both tax cuts and anti-union laws, it becomes harder for public-sector unions to work within the politics of the current system.

Managerial

Public-sector unions are often characterized as obstacles to efficiency and effectiveness in government. These "…politicians speak of the need to 'modernize' the civil service and make it more efficient [and] they complain of lethargic public organizations that need revitalizing" (Brewer, 2016, p. 175). Oftentimes, this lethargy is blamed on the monopolies in service delivery that government entities enjoy and the tenure status of their public-sector employees. Reforms are thus presented with a great sense of urgency but these reformers "…often have ulterior motives for enacting reforms that promise greater economy and efficiency" (Brewer, 2016, p. 179). Starting in the 1980s with the New Public Management movement, "…political leaders often [saw] civil service reorganization as a means of enhancing their political and ideological agendas" which meant greater control over government bureaucracies (Brewer, 2016, p. 172). The elimination of traditional civil service merit system protections such as "career-appointment" status and equal pay combined with a reduction of public-sector union power creates a modern system of patronage where accountability to politicians and responsiveness to policy preferences is of the utmost priority (Brewer, 2016, p. 173). Regardless of party, strong majorities will seek the elimination of civil service merit system protections in order to make government employees and policies more responsive to their will. When any majority party foresees a loss of political control, they are more likely to incorporate civil service merit system protections to insulate their appointees and interests (McGrath, 2013, p. 647). Thus, the implementation of reforms (with little to no empirical data to support their enactment) can be a bipartisan tool through which government bureaucracy and public-sector unions are controlled.

An outgrowth of the efforts undertaken in New Public Management is "New Public Governance," or the privatization and marketization of government services. A unique example of this trend was Michigan's 2013 attempt to contract out food services at its state prisons and thus avoid paying unionized government workers. Unfortunately, these private vendors served rat-chewed and maggot-infested food to prisoners and in early 2018, it was announced that food service would be returned to government employees (Pyke, 2018). However, the contracting out of public services remains a means by which to circumvent public-sector unions but in doing so, government becomes fragmented, the discretion and influence of public service professionals is reduced, and government service delivery capacity and monitoring ability is "hallowed out" (i.e. unable to meet demand or monitor contractors) (Dickinson, 2016, p. 42).

Essentially, what is often overlooked or downplayed is "Transactions Cost Theory" which finds that transaction costs like contract monitoring or bidding processes oftentimes outweigh any public delivery costs (Johnston & Romzek, 2010, p. 6). Certainly, marketization and privatization of government services plays well with the public, an unfortunate effect of media/partisan-determined public agendas in a representative government, but contracting with autonomous entities creates a new form of governance, one without actual governance or accountability by voters (Dickinson, 2016, p. 43). Public-sector unions, some more than others, get in the way of these privatization efforts simply by existing. In some cases, these unions are squeezed from both sides of the aisle. For example, "…among the biggest targets of [public school] reform efforts are teachers' unions, which get in the way of privatization, vouchers, and charter school expansion. [These are] all items on conservatives' education agenda, but also often on the agenda of 'reformers' among Democrats, which makes teachers' unions more vulnerable and lower-hanging fruit"

(Krinsky, 2013, p. 1105). Persecution of public-sector unions via privatization is not a partisan affair; dependent on the circumstances and public opinion, it can be a rare instance of bipartisanship.

Legal

Since the 1950s and 60s, public-sector unions have expanded their rights and abilities state-by-state, creating a patchwork of state laws and case law. With no overarching national law or court decision, the legal scope of public-sector unionization and collective bargaining is solely the domain of the states, and localities where allowed (Sanes & Schmitt, 2014, p. 3). While the status of public-sector union abilities and rights varies from state-to-state, the legal arguments used by the opponents of these unions remain essentially the same. However, these arguments are oftentimes rooted in fiscal concerns and have developed over time. The earliest legal arguments against public-sector unionization "…[alleged] that public-sector collective bargaining would compromise the very sovereignty of government, allowing unions to usurp a share of the government's powers" and paralyze government service delivery with a never-ending cycle of strikes (McCartin, 2013, p. 55). Much of this argumentation stemmed from class struggles of the period along with the idea that "no man can serve two masters" (i.e. the government and a public-sector union) (Lichtenstein, 2013, p. 198). During the 1980s, the compromised sovereignty argument was largely eclipsed by the Right-to-Work movement. Advocates of this movement argued that "any contracts that required government workers to pay for the cost of collective bargaining were an infringement on workers' rights to freely associate" (McCartin, 2013, p. 55). While opponents of public-sector unions still use both the compromised sovereignty and Right-to-Work arguments, neither argument is sufficient on its own any longer. Indeed, these legal contentions, along with managerial and political concerns, have all been subsumed by fiscal arguments… which are the greatest threat to public-sector unions.

Fiscal

Chicago Mayor Rahm Emmanuel once advised other elected officials to "never allow a crisis to go to waste" (Lichtenstein, 2013, p. 197). In 2008, the collapse of the housing market and subsequent recession provided the crisis that anti-public-sector union forces had long sought. While the use of a "fiscal crisis as a bludgeon to beat unionized public workers is nothing new," it took on a new edge when combined with growing state deficits and a Republican sweep of statehouses nationwide in the 2010s (Krinsky, 2013, p. 1107). From the Great Recession emerged a new, four-part narrative, that (1) public-sector unionism had made government too expensive, that (2) public-sector unions were not so-much subverting the sovereignty of the state, but were instead sustaining a strong and intrusive state, that (3) public-sector union pensions were bankrupting state budgets and that (4) public-sector union employees now constituted a new "privileged" or "elite" class of citizen (Lichtenstein, 2013, p. 198). Using these accusations, and "…emphasizing, and in some cases manipulating, the red ink flowing through so many state budgets, [governors in states like Wisconsin, New Jersey, Indiana, Ohio, and Iowa] leveraged the crisis to strike a body blow at… public-sector unions" (Lichtenstein, 2013, p. 197).

Of these four claims, each one blames government employees, and specifically public-sector unions, for increased government expenditures and debt. Those in support of these claims also believe that the collective bargaining process promotes unsustainable rent-seeking behavior. As a result, public sector unions can contribute financial resources and support to electing the same politicians with which they will eventually bargain (Krinsky, 2013, p. 1088). This would mean that "public-sector unions are both the animators and beneficiaries of a wages-and-benefits machine that enriches them at the expense of the public at large" (i.e. engaging in rent-seeking behavior by passing "excessive" wage increases to taxpayers through raising taxes or using monopoly powers to "unnecessarily" expand government services) (Krinsky, 2013, p. 1109). Those opposed to public sector unions also believe that government employees now constitute an "elite, privileged class" built on the backs of "overburdened taxpayers" (McCartin, 2013, p. 56). Promotion of beliefs such as this can instigate distrust among the classes of society. Yet, data and circumstances show these claims to not be true.

Government employment and service delivery has not been unsustainably growing; in fact, "between 1979 and 2009, state and local public-sector employment has remained at just about 14.5 percent of the entire workforce." Furthermore, "compensation as a share of state budgets has actually declined over the last 20 years, with little evidence of a gap between unionized and nonunion states" (Lichtenstein, 2013, p. 206). Compared to the private sector over the last 40 years, "the highest public-sector wage premium on record is still smaller than the lowest private-sector premium" (Rosenfeld, 2014, p. 45). These government workers are not overcompensated and studies have found that they are instead undercompensated by anywhere from 6.3 percent to 3.7 percent depending on what factors are controlled (Keefe, 2010, p. 12). Public-sector workers have not contributed to government bloat, they, for example, have merely been put in the unfortunate position of getting in the way of libertarian-type efforts to privatize public goods and services like education and infrastructure.

At greater risk for public-sector unions is their healthcare, pensions, and other post-retirement benefits (OPEBs), which have been portrayed as extravagant and unmaintainable. "In recent years, fights over benefit cuts have truly been bipartisan affairs [and since] benefits packages among government employees are often quite substantial, [this makes] them an obvious target during economic downturns" (Rosenfeld, 2014, p. 54). Going after these benefits packages and pensions can be risky for politicians. Yet the possibility of these cuts remains attractive to politicians on both sides of the aisle who are seeking out ways to address state debt loads. However, public-sector employee benefits, OPEBs, and pensions are not the true cause of state debt woes.

Instead, the debt troubles of the states are a direct consequence of the Great Recession. The Great Recession began a steep decline in state government tax collections with a decrease of over $65.8 billion in 2009 and an additional $14.3 billion in 2010. Such declines were attributable to massive job loss, the housing market collapse, and unwise tax cuts (Weingarten, 2011). Thus, deficits are not the result of pensions and benefits plans, but of economic circumstances outside of public-sector union control or influence (Lichtenstein, 2013, p. 206). Additionally, pension contributions on average only account for three percent of state budgets. Furthermore, "in 2008, 7.7 million retired state and local government workers received pensions. Their average benefit was $22,653 [and] that equates to about $435 a week. Most of that money [wasn't] even on the taxpayers' dimes [since] taxpayers [only] pay for about 14 percent of public retirement benefits" (Weingarten, 2011). Combine this with the fact that "public-sector employees earn less on average than their private sector counterparts with similar qualifications" (including all their health and pension benefits). For

example, public-sector union educators, on average, suffer a -19.5 percent wage gap when compared with occupations in the public-sector requiring similar educational attainment. This gap worsens for non-union educators whose wage gap stands at -25.5 percent (Allegretto & Mishel, 2016). When evidence like this is taken into consideration, it quickly becomes clear that the deficit problem is not truly the fault of public-sector unions and government employees.

CONCLUSION

Public-sector unions have remained relatively strong in comparison to their private-sector counterparts, but their strength is limited by their vulnerability to executive decisions and legislative actions. Since their inception and especially since the Great Recession, public-sector unions (and collective bargaining rights) have been curtailed and assailed under the guise of the above four main factors and concerns with such policy failures as government service monopolies and bureaucratic supply. Regardless of their political affiliation, politicians have found it easy and convenient to blame budget woes and deficits on public-sector unions. Such scapegoating will continue until public-sector unions are able to win or at least achieve parity in the battle for public opinion mainly through showing that transactions costs more often than not outweigh government service delivery costs. and Until such time as states broaden their tax bases and adequately recover from the Great Recession, public-sector unions will continue to be scapegoated by budget-reducing politicians and by those seeking to marketize and privatize public-sector services.

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