



Paycheck Protection and the Keystone State By: Patrick Hedger*

Millions of Americans across the country are members of labor unions, collective action organizations formed to represent the best interests of laborers on a broad scale, often in battles with employer management or architects of public policy. However, best interest is a perception subject to debate. Yet in many states and work places, due to compulsory membership laws and stiff pressure in their absence, the choice on whether or not to join a labor union in a given profession is often not a matter of debate.

Given this impasse of interests, many union members are forced to finance, through automatic dues deductions, political causes and candidates chosen by union leadership whom they may not support otherwise. It's a clear-cut First Amendment, freedom of speech issue that has led several states to take action.

Assorted forms of a measure called paycheck protection have been implemented by states. Paycheck protection laws prevent union leadership from spending compulsory membership dues on political expenses prior to obtaining consent from the membership as individuals.

The laws vary in strength and reach. While only a small sampling is available given the limited number of states that have taken action, those states with comprehensive paycheck protection programs have demonstrated tangible results justifying their implementation. Despite claims that paycheck protection laws are aimed at disenfranchising labor unions, the results suggest that these laws actually re-enfranchise thousands of workers. Political contributions by unions in states with paycheck protection laws comprise

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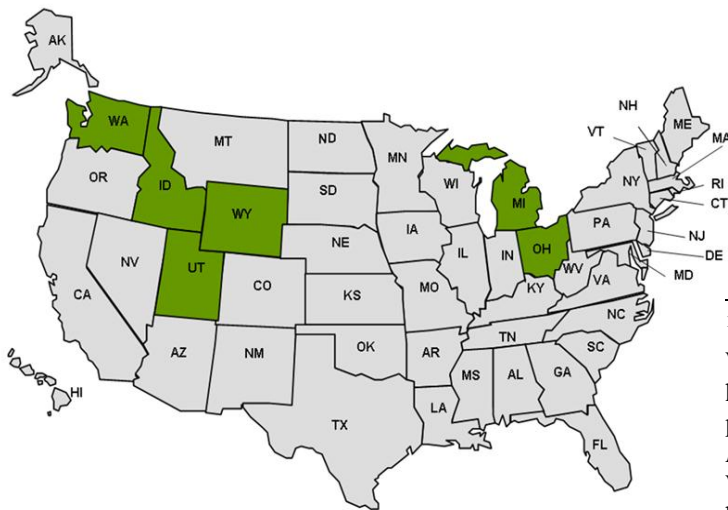


a smaller share of total political spending, suggesting that worker opt-out rates are high.

Pennsylvania, in particular, is a heavily unionized state, with membership rates well above the national average. The Commonwealth is also not a right-to-work state, meaning that, in certain professions, union membership is forced. With labor unions comprising the largest share of political contributions in Pennsylvania in 2012, the Commonwealth is a prime candidate for a paycheck protection program.

Paycheck protection programs have proved to be effective, so long as they remain comprehensive. Given the scope of unions in the Commonwealth, Pennsylvania workers stand to retain greater freedom and more of their hard-earned paychecks if an undiluted paycheck protection program is implemented in the state.

Existing Laws



Currently, six states have some form of paycheck protection on the books. These states are Idaho, Michigan, Ohio, Utah, Washington, and Wyoming.

The laws, for the most part, vary in strength, applying to only certain types of unions and political donations. Utah and Idaho both passed legislation entitled The Voluntary Contributions Act; Idaho in 1997, Utah in 2001. The laws are virtually identical and apply only to public sector unions. However they completely forbid those unions from using any payroll deductions for political purposes. Unions in these two states may establish separate political fund accounts, but these must be supported entirely through voluntary donations.¹

Idaho's law was fought all the way to the United States Supreme Court, after being struck down by the notoriously progressive 9th Circuit. In 2009, the U.S. Supreme Court delivered a 6-3 ruling finding The Voluntary Contributions Act as Constitutional, overturning the 9th Circuit ruling.²

Wyoming's law, enacted in 1998 has a little more clout, banning political expenditures from automatic deductions without written consent for both public and private sector unions. The law does, however, have a minor loophole where non-automatic deductions, i.e., general contributions, dues and donations, can be channeled to a separate affiliated Political Action Committee without restriction.³

¹ *Paycheck Protection in the States: Utah*, Alliance for Worker Freedom.

http://www.workerfreedom.org/images/File/Utah-paycheck_protection.pdf

Paycheck Protection in the States: Idaho, Alliance for Worker Freedom.

http://www.workerfreedom.org/images/File/Idaho-paycheck_protection.pdf

² *Ysura v. Pocatello*, Freedom Foundation.

<http://myfreedomfoundation.com/causes/project/detail/ysura-v-pocatello>

³ *Paycheck Protection in the States: Wyoming*, Alliance for Worker Freedom.

http://www.workerfreedom.org/images/File/Wyoming-paycheck_protection.pdf

It's important to note that Michigan and Ohio have taken steps to enact paycheck protection, yet their efforts have fallen short of other states. Ohio and Michigan have only banned automatic dues garnishments used for hard money contributions, i.e., direct donations to candidates, committees, or parties through labor union PAC's or other entities.

The Michigan and Ohio programs lack the teeth to tackle soft-money, or money not spent directly by a political party or organization on a specific campaign. Thus, labor unions are still able to bolster political organizations and candidates without consent from their membership.⁴

Washington, despite being largely progressive and a non-right-to-work state, provides us with the most comprehensive and successful model for an effective paycheck protection law. Enacted as a ballot initiative in 1992, Washington's law was the first of its kind in the nation and remains the strongest of the six today. In addition to meeting all the criteria of a protection program, it goes above and beyond to ensure the workplaces and unions are putting the interests and freedom of workers first.

The program in Washington applies to both private and public sector unions, and, with a ban on both hard and soft money contributions, closes loopholes found in the laws of other states. Unions are required by this law to obtain a written request from each individual member before their dues are

⁴ *Paycheck Protection in the States: Michigan*, Alliance for Worker Freedom.
http://www.workerfreedom.org/images/File/Michigan-paycheck_protection.pdf
Paycheck Protection in the States: Ohio, Alliance for Worker Freedom.
http://www.workerfreedom.org/images/File/Ohio-paycheck_protection.pdf

deducted for political purposes. Going a step further, labor unions are also required under the law to remind their membership on an annual basis that their consent for political spending is entirely revocable, allowing for workers to opt in and out as the political landscape changes.⁵

Union Political Spending in 2012

To capture an idea of how many workers choose to opt-out of having their dues used for political purposes, let us look at the presence of union political spending in state-level races in three categories of states: Forced Union, Right-To-Work, and Paycheck Protected.

The following data measures the average percentage that labor unions comprised of total state-level political spending in 2012, as well as where labor's spending ranked with respect to other interest groups in the state.⁶

Forced Union (Non-Right-To-Work) States

There are 23 states where workers are forced to join a union if one is present that also do not have any form of paycheck protection on the books. These states are:

Alaska, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Kentucky, Maine, Maryland, Massachusetts, Minnesota,

⁵ *Paycheck Protection in the States: Washington*, Alliance for Worker Freedom.
http://www.workerfreedom.org/images/File/Washington-paycheck_protection.pdf

⁶ All data on union political spending as a percentage of total political spending and rankings based on data obtained from The National Institute on Money in State Politics web-database *Follow the Money*.
<http://www.followthemoney.org/database/>

Missouri, Montana, New Hampshire, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Vermont, and West Virginia.

Ohio is a forced union state; however, as previously mentioned, it has a limited form of a protection program.

In these 23 states, labor unions contributed an average of **6.3 percent** of all political spending on state level races during the 2012. Labor spending ranked roughly 4th on average when compared to other state level interest groups and contributors. In Rhode Island, Illinois, California and Pennsylvania, unions ranked 1st, or, in other words, were the largest contributing special interest group to political spending statewide. Unions were ranked 2nd in New York.

Right-To-Work States

There are 21 states where workers have the option of whether or not they will join a labor union, regardless of profession, that do not have paycheck protection laws enacted. These states are:

Alabama, Arizona, Arkansas, Florida, Georgia, Indiana, Iowa, Kansas, Louisiana, Mississippi, Nebraska, Nevada, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, and Virginia.

Michigan has recently become a right-to-work state; however the state also has only a limited form of protection. Data was unavailable for Mississippi and was not factored in to the following.

In these states, labor unions made up an average of **4.6 percent** of all state-level spending, ranking roughly 7th when compared

to all other spending by interest and political groups. Labor union spending ranked 1st in Nebraska and ranked 2nd in Indiana, Iowa, and North Dakota, thus demonstrating an incredible amount of influence despite right-to-work laws being in place.

Paycheck Protected States

There are four states with paycheck protection laws that are designed to curb both hard and soft money political spending by unions:

Idaho, Utah, Washington, and Wyoming.

Organized labor groups in these four states only comprised **3.25 percent** of all political spending on state races in 2012. Union's ranked 8th in Washington and 9th in Idaho and Utah when compared with other groups.

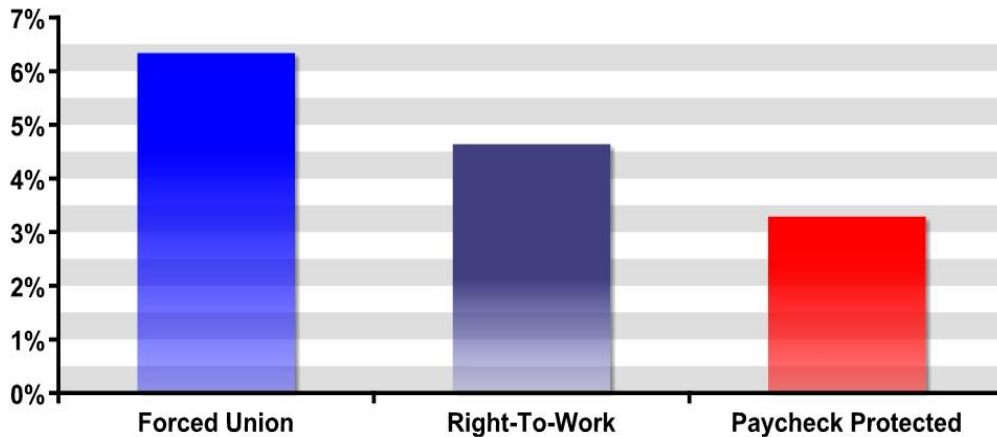
Analysis

Between non-protected forced union states and the four states with comprehensive programs in place, the drop-off in organized labor's contribution to state-level spending is considerable.

Labor unions in the four protected states contribute, on average as a percentage of total spending, only slightly more than half of what their counterparts in forced union states do.

Average Union Political Spending by Type of State

As a Percentage of Total State-Level Spending 2012



There is even substantial evidence to suggest simply passing right-to-work legislation in a state still leaves many union laborers out in the cold when it comes to securing their political freedom. In 2012, political spending was 30 percent higher in right-to-work states without paycheck protection legislation.

Despite the steady decline in membership, organized labor has become an increasingly dominant player in state races since the 1990s.

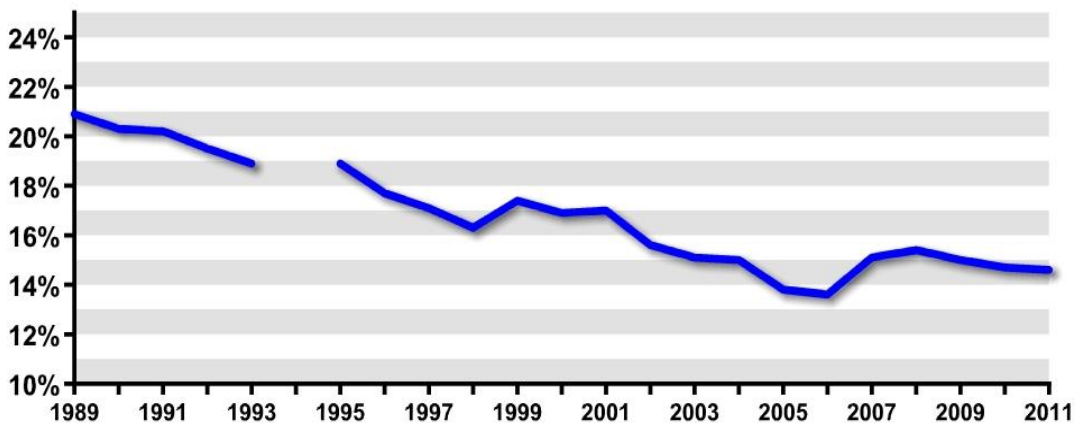
What this illustrates is that unions are drawing more heavily on a decreasing number of paychecks. More and more funding that was intended to provide for collective bargaining and other protections for unionized labor is being funneled to political campaigns.

Pennsylvania at a Glance

An inverse relationship is emerging in Pennsylvania between the presence of unions in politics and their presence in workplaces. Union membership rates have been sliding in Pennsylvania since the mid-20th century.

Pennsylvania Union Membership

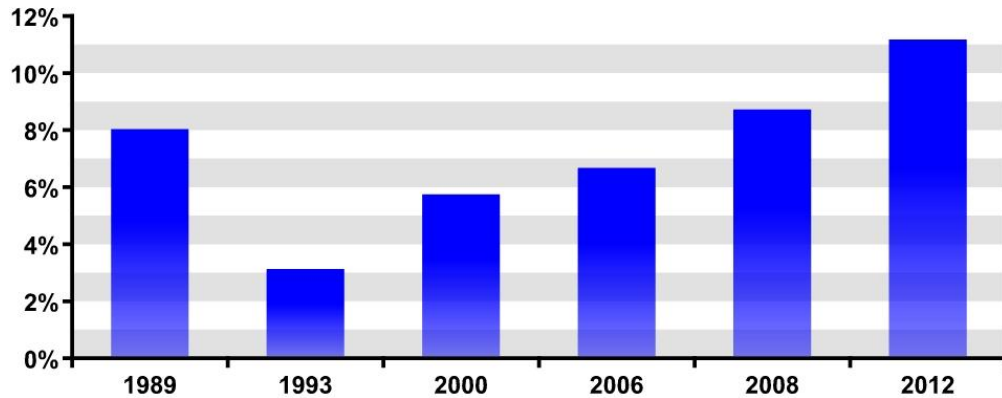
As a Percentage of the State Workforce 1989-2011



Source: U.S. Bureau of Labor Statistics. <http://www.bls.gov/ro3/unionpa.htm>. 1994 data unavailable.

Pennsylvania Union Political Contributions

As a Percentage of Total Political Spending at Select Increments

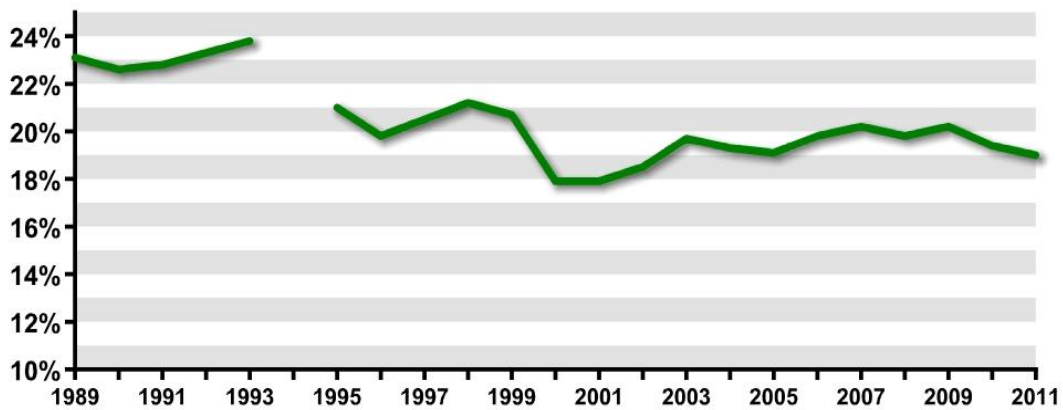


The data from Washington paints a noticeably different picture. Labor union membership has remained relatively stagnant since the mid-to-late 1990s.

Nevertheless, spending levels at several key intervals show an average decrease in spending. This suggests that Washington workers are taking advantage of the opt-out protections at a substantial rate.

Washington State Union Membership

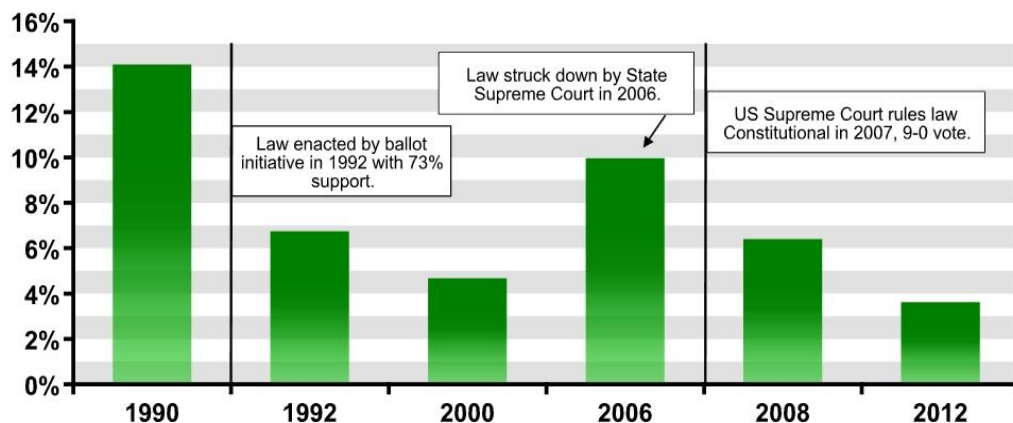
As a Percentage of the State Workforce 1989-2011



Source: U.S. Bureau of Labor Statistics. <http://www.bls.gov/ro9/unionwa.htm>. 1994 data unavailable.

Washington State Union Political Contributions

As a Percentage of Total Political Spending at Select Increments



The data from Washington shows an obvious correlation between organized labor's influence in the political cycle and their ability to confiscate funds for political purposes with or without the consent of their membership. After the law passed in 1992, unions in the state never again approached the spending levels seen in 1990 during a major electoral cycle. Only a temporary strike-down of the law, later overturned by a unanimous decision in the U.S. Supreme Court, allowed for labor leadership to resume aggressive spending.

If unionized workers weren't electing to opt-out, there are few more convincing arguments as to why spending, especially during major cycles like '92, '96, 2000, '08, and 2012 was so much lower than off-year midterms like 1990 and 2006.

Conclusion

The evidence to date is compelling and suggests that members of unionized labor are entitled to a choice. The data reveals that many would rather keep, no matter how major or minor, the portion of their paycheck normally deducted by the union for political purposes; or have it reassigned towards advancing the original purposes of the union.

When members of the teachers union in Washington State were presented such a choice, donations to the affiliated union-PAC shrank by 75 percent within 5 years.⁷ The same results were achieved within one year in Utah.⁸

⁷Darcy Olsen, *Government Workers Deserve Paycheck Protection*, Goldwater Institute, April 18, 2012.

<http://www.goldwaterinstitute.org/blog/government-workers-deserve-paycheck-protection>

⁸Wendy Leonard, *Top court decision backs Utah payroll law*, Deseret News, Feb. 25, 2009.

<http://www.deseretnews.com/article/705287199/Top-court-decision-backs-Utah-payroll-law.html?pg=all>

Unions in Pennsylvania are now eliciting funds for consistently expensive and ambitious political campaigns from a dwindling amount of paychecks. Political power, in and even beyond the Commonwealth,* is being purchased by union leaders at the expense of workers' freedoms.

If afforded the opportunity, Pennsylvania workers would likely respond to the freedom afforded by paycheck protection legislation much in the same way their colleagues in other states have for the past two decades.

*The Pennsylvania State Education Association spent at least \$21,000 on the effort to recall Wisconsin Governor Scott Walker.

Nathan Benefield, *Pa. Teachers Forced to Pay for Wisconsin Politics*, The Commonwealth Foundation, June 5, 2012.

<http://www.commonwealthfoundation.org/policyblog/detail/pa-teachers-forced-to-pay-for-wisconsin-politics>