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Ohio's [new law on collective bargaining](#), (Senate Bill 5) eviscerates rights for teachers, police, firefighters, and other public employees, rights that have been in place since 1983. In order to understand how this has happened, it makes sense to start with the question why should we care? Does access to collective bargaining really matter to us as Americans, beyond those workers who are represented by unions?

The short answer is an emphatic Yes. Collective bargaining is important to us as a nation for several reasons. First, there is our economic welfare. The growth of collective bargaining promotes a fairer distribution of resources and enhances mass purchasing power. For teachers, police, firefighters, health care workers, and others, it helps create and maintain a robust middle class. A sizable middle class enables these millions of Americans to contribute to economic well-being for the rest of us, by purchasing consumer goods, investing in higher education for their children, buying homes, taking family vacations, etc.

Collective bargaining also enhances democratic decision-making in our everyday lives. Most working Americans spend the bulk of their waking hours in their place of employment. Collective bargaining reinforces our national commitment to self-government by respecting the role of employee voice as a meaningful part of workplace decision-making: this includes sharing both benefits and burdens between workers and management.

Relatedly, the quality of public services is enhanced by collective bargaining. Treating teachers, police, and firefighters with dignity, and crediting their collective views on how to do their jobs, allows local governments to perceive certain challenges more clearly and then to negotiate practical solutions. Policemen bargained successfully for bulletproof vests not because cities and counties didn't want them to have this safety equipment but because police unions made it a priority. Likewise, teacher unions have bargained for many terms and conditions that improve our schools, including required class planning time, smaller class sizes, tougher student disciplinary policies, and mentoring programs for new teachers.

Collective bargaining in the public sector first gained statutory protection in 1959 in Wisconsin. Since the 1960s, skeptics have argued that the absence of market forces in the public sector—and the pliability of state and local politicians when compared with CEOs and shareholders—would allow unions to raise pay without limit. That has not occurred. There is little or no difference between public and private employee salaries when controlling for

education and other background elements. Indeed [one recent study found that full-time public employees in Ohio make six percent less](#) on average than their private sector counterparts. Various factors account for public employee pay constraints that were not predicted by free market advocates: the law limits strikes in the public sector more than in the private sector; for many public sector jobs, pay disputes are resolved through interest arbitration with a minimal impact on salary growth; and unions are generally sensitive to public employers' ability and willingness to pay.

There is a larger gap today between public and private employee compensation with respect to pension benefits. But public employee pension programs, in Ohio and elsewhere, are set by state legislatures, not by collective bargaining. And as a recent *New York Times* article pointed out, the variation between states in their pension replacement rates (or percentages of a worker's pre-retirement income that his pension replaces) bears no apparent relation to the percentage of public employees covered by collective bargaining. For instance, Georgia's replacement rate is identical to Ohio's, although less than 15 percent of Georgia public employees are covered by collective bargaining compared to 46 percent in Ohio.

Why, then, have states like Ohio and Wisconsin chosen to eliminate collective bargaining for all practical purposes? The initial claim of severe fiscal conditions has been exposed as a smokescreen. Fiscal crises are occurring in states like Texas and Virginia that bar collective bargaining. And 2010 budget deficits are as high in the nine states that banned collective bargaining for most or all public employees as in the fifteen states that allowed it for all theirs.

Tellingly, leading proponents of Senate Bill 5 asserted as their core justification for the bill not money but flexibility. The Senate bill author and Ohio's governor talked constantly about the need for flexibility to manage Ohio's public workforce. Yet Ohio's experience since collective bargaining became lawful in 1983 makes it very hard to make a case for inflexibility.

Ohio teacher salaries in 2009-10 were a mere \$750 above the U.S. average of \$55,200. That was well below other states with collective bargaining such as New York, Pennsylvania, Illinois, Massachusetts, and Maryland. But if one examines the states that ban collective bargaining for teachers, Ohio teacher salaries were \$6000 above Virginia, \$7500 above Texas, and \$9000 above North Carolina. Presumably, those are the barometers that Senate Bill 5 proponents have in mind for Ohio's future.

Nor can it be argued that collective bargaining has brought on more strikes. Before 1983, public employee strikes were widespread in Ohio. Under the collective bargaining law,

strikes have been minimal, especially by teachers. There were 7.4 teacher strikes per year from 1984-92, costing less than 0.7 percent of total instructional time. Those numbers have been even smaller in recent times: two strikes in 2006, four in 2007, two in 2008, one in 2009, zero in 2010. Nine teacher strikes in five years hardly seems inflexible.

Even stronger recent evidence of flexibility is how often Ohio public employee unions have made significant concessions in the bargaining process--and without strikes. A quick review of media stories from 2008-10 discloses multiple instances of teachers from Cleveland, Akron, and Columbus, and tens of thousands of health care and other government workers across the state, who accepted wage freezes, health premium increases, mandatory furloughs, and other givebacks in the face of the economic crisis. And public employers are quoted effusively praising the collective bargaining process for facilitating these arrangements.

Agreeing to substantial concessions is a natural outgrowth of the flexibility that characterizes the collective bargaining process. Public employees live and interact in their communities. They are taxpayers just like their neighbors. They perceive revenue shortfalls just like their neighbors do. They have no interest in undermining, much less bankrupting, the employers for whom they work, employers that educate, protect, and serve their families.

So, if the new Ohio law isn't about flexibility, what is really going on? Regrettably, this law and others like it seem to be about raw power: subordinating our teachers, police, firefighters, and other government workers, and crushing their unions that are a major source of funding support for Democratic Party candidates and elected officials.

Historically, American employers have cited "flexibility and control" as their watchwords under the law of employment-at-will that dominated American workplaces through much of the 20th century. Ohio's new law signals a renewed commitment to that kind of subservient employment relationship. The law effectively abolishes collective bargaining. It does so by prohibiting all public employee strikes (with penalties of mandatory double wage loss) and eliminating interest arbitration and any other neutral third party dispute resolution procedure. Instead, employees may "bargain," but if there is no agreement, then the public employer or its legislative body is the final decision-maker. That is tantamount to collective begging, not collective bargaining. It reduces negotiation between employees and their government employer to a conversation that ends whenever the employer decides it ends.

As enacted, the Ohio law also removes a number of previously bargainable subjects from the collective bargaining process. These include health care benefits, except for the amount of the premium paid by employees, which must be at least 15 percent but could be more if employers decide they want to "bargain" higher premiums. Also off the table are teacher

assignments, privatization or contracting out of public employer services, and the number of employees required to be on duty or employed. Even subjects that are bargainable -- notably salary -- are legislatively constrained. There are narrower salary ranges and merit-based pay for most public employees with no statutory criteria set for performance.

Finally, Ohio's new law seeks to weaken unions as a source of support for the Democratic Party at a time when the lifting of limits on corporate expenditures has produced dramatically increased spending in favor of Republican candidates. By banning automatic paycheck deductions for union members who want certain dues money to be used for political action committees, the law makes it that much harder for public employees to participate in the political process. Additionally, by banning fair share fee contract provisions, the law effectively invites free riding by employees whom the union is required to represent under state law but who now no longer can be required to pay their fair share of the costs of that representation. This predictably will deplete further the financial resources of public sector unions in Ohio.

If the new law is not rejected by Ohio voters in a referendum election, it will effectively gut the collective bargaining process while undermining the political voice of unions and their members. It is hard to escape the conclusion that this is exactly what the proponents of Senate Bill 5 meant to achieve.