

BACKGROUND

A group of Wisconsin workers and labor unions have filed a new lawsuit challenging the constitutionality of the 2011 law eliminating the right of certain public employees to negotiate with our employers in areas like salary schedules, workplace safety, contract hours and other conditions of employment.

CORE MESSAGE

We are the educators who are there every day for students, the correctional officers who keep communities safe and the essential workers who make sure our communities run smoothly. Wisconsin is better when all employees have a say in our workplaces, whether about class sizes in our schools, safety on the job, hours or any other number of areas. The current law that discriminates against some workers while upholding the same rights for others is unconstitutional.

FREQUENTLY ASKED QUESTIONS

What changed for 'disfavored' public sector employees after bargaining rights were stripped?

- Most Wisconsin public workers lost our freedom to collectively negotiate over most work-related topics, except for base wages which are tied to the Consumer Price Index. If educators and their employers reach an impasse in base wage negotiations, the employer can impose its will without an impartial mediation process.
- Most Wisconsin public workers are required to vote every year to "recertify" our unions in order to be considered as the designated bargaining agent for base wages.

What unions are part of the lawsuit?

SEIU Wisconsin, the Wisconsin Education Association Council, the American Federation of State County and Municipal Employees (AFSCME), the American Federation of Teachers, and the Teamsters.

Who are the plaintiffs representing WEAC and why were they selected?

Abbotsford Education Association: This local is an example of one that has been impacted by the burdensome annual recertification election process. Because the threshold required to win a recertification is set at 51 percent of **eligible voters** – higher than required to elect the United States President – this local was unsuccessful in recertification **even though a majority of employees (50.8%) voted YES**.

Beaver Dam Education Association: Despite having won recertification elections every year since Act 10 took effect, Act 10 has limited the local to bargaining over employees' base wages for over the past decade. If it weren't for Act 10's limitations the Association would negotiate over many other economic and non-economic terms and conditions of employment with the school district.

Talking about... Collective Bargaining Lawsuit

Individual Plaintiff, Matt Ziebarth: Mr. Ziebarth is a high school teacher with a 25-year career and a member of Beaver Dam Education Association/WEAC. He has experience as a bargaining representative and negotiator before and after Act 10. Mr. Ziebarth has witnessed firsthand the effect of Act 10's limitations on the ability of public sector employees to collectively organize and advocate for themselves, as well as the burden annual certification elections have place on unions.

Didn't unions already sue over Act 10 and lose? How is this different?

This lawsuit brings state law equal protection claims that have not previously been raised. The claim 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. These claims have never been raised before under the Wisconsin Constitution. The Wisconsin Constitution has unique language in favor of Plaintiffs in light of its unique equal protection guarantees.

- The previous lawsuit was filed in federal court and made different legal claims.
- This is a state lawsuit claiming all working people in Wisconsin should be guaranteed equal rights and freedoms under the Wisconsin Constitution and the legislature can't establish — arbitrary classifications based on the kind of work we do. This issue has not yet been answered in State Court.
- We believe this lawsuit will answer that question and determine our freedoms as workers in Wisconsin.

What are the main points of the lawsuit?

The lawsuit asserts that under current law, equal protection under the law is violated. The law creates two categories of public employees, allowing bargaining rights for one and not the other.

- 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.
- The law is not applied equally or consistently among employees who carry out traditional public safety functions — some are granted bargaining rights and some are not.

What happens next?

The lawsuit was filed in Dane County Circuit Court on November 30, 2023. If its outcome is appealed, it could go to higher level courts including the Wisconsin Supreme Court. It will likely take up to a year to be resolved.

What happens if workers win the lawsuit?

All Wisconsin public workers would regain the freedom to negotiate over work-related issues including healthcare coverage, retirement security, paid time off, scheduling and other workplace policies. Public workers would no longer be forced to vote every year to preserve our unions. Once we form a union, we would be free to maintain our organizations and govern them democratically.

Why is this lawsuit being filed now?

Talking about... Collective Bargaining Lawsuit

The lawsuit is 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](#) is fraught with sexism and retaliation, and there is a [32 percent staff vacancy rate for corrections officers](#) in Wisconsin's adult institutions.

Overview:

Wisconsin state law unconstitutionally discriminates against most public sector workers, denying their freedom to negotiate with employers on subjects beyond base wages and to form a union without jumping through the hoops of the burdensome annual recertification election process. It carves out only those worker unions arbitrarily designated as "public safety," but in fact, excluded many sworn enforcement officers and other public sector workers including corrections officers, teachers, motor vehicle inspectors and education support personnel.

Plaintiffs

- Abbotsford & Beaver Dam Education Association (WEAC/NEA)
- AFSCME Locals 47 & 1215
- SEIU Wisconsin
- Teaching Assistants Association (TAA) Local 3220 (AFT)
- Teamsters Local 695

The distinctions that the Legislature drew between general employees and public safety employees bear no rational relationship to the stated budgetary objectives of the Act or to any other legitimate state purpose. Instead they are unconstitutional distinctions that violate Article I, Section 1 of the Wisconsin Constitution – the Equal Protection Clause.

Act 10's irrational classifications:

- No substantial distinctions which make one class different from another
- Are not germane to the purpose of the law
- Are based on circumstances that only existed at the time of enactment
- Are not applied equally or consistently among employees who carry out traditional public safety functions

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