

Workers' Choice of Representation

Many workers value professional representation in negotiations with their employer. Workers in Nevada's local governments, however, are restricted in their right to choose how they will be represented.

Nevada's Local Government Employee-Management Relations Act forbids workers in local governments from seeking representation other than the approved employee organization for the bargaining group to which employees are assigned. The approved organization is recognized by law as "the exclusive bargaining agent of the local government employees in that bargaining unit."¹

Scholars refer to this as a "union security" provision because it protects union officials from competition by rival unions, lawyers or others who offer representation services, even when some workers might prefer these alternatives.

Key Points

Union security provisions violate workers' freedom of association. As British labor scholar Henry Richardson recognized:

[T]he right to set up a rival union is included in freedom of association, and to take away this right could weaken the vitality of the trade union movement. Groups of workpeople may hold quite different views upon trade union policy and methods, and if they cannot reach agreement they are likely to form separate unions ... Again where only one union has hitherto operated some of the members may consider that its policy and leadership have become too extreme and aggressive or too complacent and spineless, and if they are unable to bring about change from within, they may cease to be members or may decide to form a rival union.²

Union security provisions enable union leaders to become less responsive to workers. As in other industries, individuals who provide employee- representation services are much more likely to remain responsive to their customers' needs when those customers have other options available. When representation providers enjoy a protected monopoly status, however, that likelihood diminishes.

Many of Nevada's local government employees have never voted for their current representation. In many cases, elections for union representation occurred decades ago before current employees even entered the workforce. The bargaining group to which employees were assigned upon being hired could well have taken office decades ago – meaning that many of today's workers have never been able to vote on the group of representatives to which they've been assigned.

Recommendations

Allow workers to periodically vote on their representation. Union officials should have to prove their worth to the employees they represent and generate value for those employees. Moreover, Nevada's local government workers

¹Nevada Revised Statutes, 288.160(2).

²J. Henry Richardson, *An Introduction to the Study of Industrial Relations*, London: George Allen and Unwin, 1954, pp. 187-188.

should have a right to at least vote on their representation instead of being forced into a decades-old relationship over which they have little say. All bargaining groups should be able to vote every year or every few years on whether they wish to continue with their current representation. Similar changes have been enacted in Wisconsin and Ohio in recent years.³ When given the choice, nearly 15,000 public employees chose not to support their existing union in Wisconsin in 2014.⁴

Remove “exclusive bargaining agent” language from Nevada law and allow workers to select representation of their choosing. A further step is to remove the union security provisions that guarantee current union leaders protected monopoly status and allow employees to acquire whatever representation they prefer, including themselves. Exclusivity prevents an employee from approaching their superior directly to discuss wages or working conditions.

Total Act 10 Savings (in billions)



Total Savings From Act 10 2011-2023

Retirement Savings	
State Government	\$ 1,633,680,425
University of Wisconsin System	\$ 1,651,470,364
Tech College System	\$ 481,744,607
Local Government	\$ 3,290,454,246
Schools	\$ 4,205,629,583
Retirement Savings	
State Government	\$ 727,254,004
University of Wisconsin System	\$ 720,168,874
Tech College System	\$ 263,746,499
Local Government	\$ 2,479,780,992
Schools	\$ 1,368,687,929
Total	\$16,822,617,523

Source: Maclver Institute, “Act 10 Savings Tops \$16.8 Billion Since 2011,” March 2023.

³ Wisconsin State Legislature, January 2011 Special Session, Act 10; Ohio Legislature, 129th General Assembly, Senate Bill 5.

⁴ Nick Novak, “100 Fewer Wisconsin School District Unions Seek Recertification Under Act 10,” Maclver Institute, December 2014.