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STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT IV

Case No. 2012 AP 2067

MADISON TEACHERS, INC., PEGGY COYNE,
PUBLIC EMPLOYEES LOCAL 61, AFL-CIO
and JOHN WEIGMAN,

Plaintiffs-Respondents,

v.

SCOTT WALKER, JAMES R. SCOTT,
JUDITH NEUMANN and RODNEY G. PASCH,

Defendants-Appellants.

On Appeal from the Decision and Final Order dated
September 14, 2012 in Dane County Circuit Court
Case No. 2011 CV 3774, The Honorable
Juan B. Colas, Presiding

BRIEF OF AMICI WISCONSIN EDUCATION ASSOCIATION COUNCIL, AFSCME DISTRICT COUNCILS 24 AND 40, AFT-WISCONSIN, SEIU-HEALTHCARE WISCONSIN, WISCONSIN FEDERATION OF NURSES AND HEALTH PROFESSIONALS AND STATE OF WISCONSIN AFL-CIO

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TABLE OF CONTENTS

Page

I. INTRODUCTION 1

II. ACT 10 INFRINGES EMPLOYEES' FREEDOM OF ASSOCIATION 3

III. ELIMINATION OF VOLUNTARY PAYROLL DEDUCTIONS FOR UNIONS VIOLATES REPRESENTED EMPLOYEES' FREEDOM OF EXPRESSION AND ASSOCIATION. 7

IV. THE ANNUAL RECERTIFICATION PROVISIONS OF ACT 10 BURDEN FIRST AMENDMENT RIGHTS AND VIOLATE EMPLOYEES' RIGHT TO EQUAL PROTECTION 8

V. CONCLUSION 10

CASES CITED

Bailey v. Callaghan, 873 F.Supp.2d 879 (E.D. Mich. 2012) 8

Board of School Directors v. WERC, 42 Wis.2d 637, 168 N.W.2d 92 (1969) 7

Cipriano v. Houma, 395 U.S. 701 (1969) 10

Citizens Against Rent Control v. City of Berkeley, 454 U.S. 490 (1981) 7

Coalition To Defend Affirmative Action v. Regents of University of Michigan, 701 F.3d 466 (6th Cir. 2012) 10

Gray v. Sanders, 372 U.S. 368 (1963) 9, 10

Helling v. Lambert, 2004 WI App 93, 272 Wis. 2d. 796, 681 N.W.2d 552 .... 4, 6

Hickory Fire Fighters Ass'n etc. v. Hickory, 656 F.2d 917 (4th Cir. 1981) 5

Hunter v. Erickson, 393 U.S. 385 (1969) 9

In re Stolen, 193 Wis. 602, 214 N.W.2d 379 (1927) ... 3, 4

Jacobs v. Major, 139 Wis. 2d 492, 407 N.W.2d 832 (1987) 3

Labov v. Lalley, 809 F.2d 220 (3rd Cir. 1987) 4

Lathrop v. Donohue, 10 Wis. 2d 230, 102 N.W.2d 404 (1960) 3

Lawson v. Housing Authority, 270 Wis. 269, 70 N.W.2d 605 (1955) 3

Meyer v. Grant, 486 U.S. 414 (1988) 9

Milwaukee Federation of Teachers v. WERC, 83 Wis.2d 588, 266 N.W.2d 314 (1978) 7

N.A.A.C.P. v. Alabama, 357 U.S. 449 (1958) 3

N.A.A.C.P. v. Button, 371 U.S. 415 (1963) 3

Northville Downs v. Granholm, 2009 U.S. Dist. LEXIS 14857 (E.D. Mich. 2009) 9

Pilsen Neighbors Community Council v. National Consumers Foundation, 960 F.2d 676 (7th Cir.1992) 8

Roberts v. U.S. Jaycees, 468 U.S. 609 (1984) 3

Shrum v. City of Coweta, 449 F.3d 1132 (10th Cir. 2006) 4

Smith v. Arkansas State Highway Employees, 441 U.S. 463 (1979) 4

Thomas v. Collins, 323 U.S. 516 (1945) 3

UFCW Local 99 v. Brewer, 817 F.Supp.2d 1118 (D.Ariz. 2011) 7, 8

United Black Community Fund v. City of St. Louis, 800 F.2d 758 (8th Cir. 1986) 8

Washington v. Seattle School District No. 1, 458 U.S. 457 (1982) 9

Weber v. Cedarburg, 129 Wis. 2d 57, 384 N.W2d 333 (1986) 4

Ysursa v. Pocatello Educ. Ass'n, 555 U.S. 353 (2009) 7

CONSTITUTIONAL PROVISIONS AND STATUTES CITED

Wis. Const. Art. I §§3-4 .... 3, 6, 7

Act 10 .... *passim*

Wis. Stat. §20.425(1)(i) 9

Wis. Stat. §20.921(1)(a)2 7

Wis. Stat. §111.70 (3g) 7

Wis. Stat. §111.70(4)(d)3.b 8

Wis. Stat. §111.70(4)(mb) 5, 6

OTHER AUTHORITIES CITED

JOSEPH E. SLATER, PUBLIC WORKERS (2004) 1, 2

The Wisconsin Education Association Counsel; the Wisconsin State Employees Union, AFSCME District Council 24, AFL-CIO; the Wisconsin Council of County and Municipal Employees, AFSCME District Council 40, AFL-CIO; AFT –Wisconsin, AFL-CIO; the Wisconsin Federation of Nurses and Health Professionals, AFT, AFL-CIO; the Wisconsin State AFL-CIO; and SEIU-Healthcare Wisconsin, CTW, CLC (State Unions) are state- or region-wide labor organizations that represent, either directly or through their local affiliates, approximately 180,000 public employees. They file this Brief in support of affirmance of the trial court's decision.

I. INTRODUCTION

Cooperation among people who hold a common goal improves their prospect of achieving it. This association is a constitutionally protected freedom. For public employees seeking to improve conditions of employment and advance their economic and employment security, the choice is to negotiate with their employers individually or in association with co-employees. Most public employees choose to associate and have done so whether a collective bargaining law sanctioned that association, or not.

Long before MERA, local governments voluntarily recognized and negotiated with their employees' associations, reducing their agreements to writing. AFSCME had 6,000 members in Wisconsin in 1938. JOSEPH E. SLATER, PUBLIC WORKERS 165 (2004). In 1951, AFSCME District Council 40's predecessor had 79 local affiliates; by 1958 it had 97. *Id.* It engaged in informal bargaining well before any law authorized it. Collective bargaining with Kenosha's County Highway Board in 1948 yielded a workweek reduced to forty hours. *Id.* at 166. In 1949, DC 40's locals met to discuss "bargaining techniques...and the nature of requests to be made to county boards." *Id.* In 1950, Local 655, Jefferson County Highway Employees, had a signed agreement

covering union dues, a guaranteed workweek, vacations and arbitration. *Id.* This history is not unique to AFSCME. Local public employee affiliates of WEAC, the Wisconsin AFL-CIO, AFT and SEIU were first chartered in the three decades preceding Wisconsin's first public sector bargaining law.

Act 10 makes illegal collective bargaining on virtually all matters of importance to employees; makes illegal nearly all terms historically included in a contract; makes illegal the nearly universal private and public sector practice of voluntary payroll deduction of union dues and makes illegal the payment of co-employees' fees to cover the cost to negotiate and enforce a collective bargaining agreement. Act 10's authors had choices that would have passed constitutional muster but chose instead to enact legislation that unconstitutionally burdens employees who choose to associate with one another.

For example, prior to Act 10, public employers would seek to retain staff by increasing AFT and SEIU nurses' salaries above the CPI. Following Act 10, those nurses are penalized for their association with the union by limiting their wage increases to the CPI. So, if a nurse would join a union, which exists to advance its members' conditions of employment by collective action, including bargaining, she would be penalized -- paid less by the employer and would owe more. If she joined the union, she would have to pay her proportionate share of the filing fee for Act 10's annual recertification election and of the cost of staff to organize for the recertification election, and additional costs if the election was challenged. If her union won the recertification election it could bargain only total base wages and not compensation for additional experience; for additional education; or for working the 2nd or 3rd shift. Act 10 makes as much as 30 percent of her actual compensation a prohibited subject of bargaining and instead a function of employer discretion. She would be penalized for associating with the Union. Act

10 has reduced MERA to an insidious shell of a collective bargaining law.

Amici turn to three components of Act 10 and show that they violate the Wisconsin and U.S. Constitutions.

II. ACT 10 INFRINGES EMPLOYEES' FREEDOM OF ASSOCIATION

The Constitution of the United States protects the right to petition the government for redress of grievances,[1] including the right of an association. *N.A.A.C.P. v. Button,* 371 U.S. 415 (1963). Employees have a constitutional right to associate. *Roberts v. U.S. Jaycees,* 468 U.S. 609, 622 (1984) (finding an implicit right of association in the First Amendment); the right of association includes right to unionize, *Thomas v. Collins,* 323 U.S. 516 (1945). "[I]t is now beyond dispute that freedom of association for the purpose of advancing ideas and airing grievances is protected by the due-process clause of the Fourteenth amendment from invasion of the states." *Lathrop v. Donohue,* 10 Wis.2d 230, 236, 102 N.W.2d 404 (1960) (citing *N.A.A.C.P. v. Alabama*, 357 U.S. 449, 460 (1958); *Lawson v. Housing Authority,* 270 Wis. 269, 274, 70 N.W.2d 605 (1955)).

The Wisconsin Constitution provides that "[t]he right of the people...to consult for the common good, and to petition the government, or any department thereof, shall never be abridged." Wis. Const. Art.I, §4. "The right of petition may be conceded to be an inherent right of the citizen under all free governments." *In re Stolen,* 193 Wis. 602, 631, 214 N.W. 379 (1927). *See also Jacobs v. Major,* 139 Wis.2d 492, 506, 407 N.W.2d 832 (1987) ("State constitution Bills of Rights set the limit beyond which 'no human legislation should be suffered to conflict with the rights declared to be

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[1] "Congress shall make no law respecting ... the right of the people ... to petition the Government for a redress of grievances." U.S. Const. Amend. 1.

inherent and inalienable'"). What is guaranteed is that the State will pass no law "abridging" this fundamental freedom. *In re Stolen,* 193 Wis. at 631.

"[T]he constitutional basis for the freedom of association appears to be several constitutional guarantees, including the various rights of free speech, free press, petition, assembly, and voting." *Weber v. Cedarburg,* 129 Wis.2d 57, 68, 384 N.W.2d 333 (1986). In Wisconsin, even consideration of one's association as a negative factor in a legal proceeding constitutes an infringement of the right. *See Helling v. Lambert*, 2004 WI App 93, ¶8, 272 Wis.2d 796, 801, 681 N.W.2d 552 (mother's rights to freedom of association abridged by taking into account her non-marital association, absent proof of harm to the child). Association thus cannot be even "a factor" in determining the rights of citizens.

While a government may ignore a public sector union, it may not penalize participation or withhold a benefit from participants because the petitioner associated in an organization or petitioned through an organization. *Smith v. Arkansas State Highway Employees*, 441 U.S. 463, 465 (1979). "Plainly efforts of public employees to associate together for the purpose of collective bargaining involve associational interests which the First Amendment protects from hostile state action." *Labov v. Lalley*, 809 F.2d 220, 222-223 (3rd Cir. 1987).

> Not only does the First Amendment freedom of association protect public employees from retaliation for participation in a union with which their employers have signed a collective-bargaining agreement,...but ..."[t]he unconstitutionality of retaliating against an employee for participating in a union [is] clearly established."

Shrum v. City of Coweta, 449 F.3d 1132, 1139 (10th Cir. 2006).

Public employees may not be punished merely because they associate in or petition through a union:

> [A] governing body... may not deny a representative of a public employees association the opportunity to be heard on employment matters, absent compelling justification. Such discrimination without a compelling interest on the part of the government offends the Constitution under both First Amendment and equal protection analyses.

Hickory Fire Fighters Ass'n v. Hickory, 656 F.2d 917, 920 (4th Cir. 1981). In *Hickory*, the governmental body permitted non-union speakers but prohibited speakers who were representatives of labor organizations or were members of labor organizations. As *Hickory* indicates, the state's interest to burden these rights must be "compelling," not merely "rational."

Act 10 abridges general municipal employees' right to petition in exactly this forbidden way. It prohibits union-represented workers from bargaining a base wage increase above the CPI unless their employer submits the issue to referendum Wis. Stat. §111.70(4)(mb). That is, employees' right to petition is burdened because of petitioners' association; and the governmental body is affirmatively prohibited by statute from listening to and acting upon the petition.

By contrast, Act 10 contains no limits upon non-represented employees' demands and no prohibition upon what municipal governmental authorities may agree to in response to such petitions. Non-union-represented employees can demand any wage increase, regardless of the CPI, and the authority may agree without a referendum. Non-union-represented workers are not prohibited from petitioning upon any other lawful subject, for example, working hours, shift preference, or any topics traditionally subject to collective bargaining. These demands can all be met, with no barrier by Act 10. The identical demands are prohibited subjects of

collective bargaining if made by a union representing general employees. Wis. Stat. §111.70(4)(mb)1.

It is not sufficient that unionized public employees are permitted to express their views if the employers, by statute, are prohibited from making a meaningful response. The essence of the right to petition the government and to associate with others for that purpose is to plead to an authority with the power to redress the grievance. The petition clause is not a mere safety valve. By making it impossible for the decision maker to grant the petition, Act 10 violates the First Amendment and Wis. Const. Art. I §§3-4.

It is no answer to say that union members can obtain the right to petition individually by declining to select a bargaining representative. Requiring the employee drop his association with the union to be heard is exactly the evil the freedom of association was designed to prohibit. The mother in *Helling v. Lambert, supra,* was given the unconstitutional option of ceasing her relationship with her non-marital partner to have custody of her children. It is precisely this requirement that constitutes infringement of the right.

Act 10 unconstitutionally penalizes participation in unions by closing off the right to petition local governmental bodies for the airing of grievances. The differential treatment of non-union and union employees exposes this legislation as one designed to erect barriers to the right to petition and to burden the freedom of association for a disfavored class. To justify such infringements the State must show a compelling interest. There is none.

III. ELIMINATION OF VOLUNTARY PAYROLL DEDUCTIONS FOR UNIONS VIOLATES REPRESENTED EMPLOYEES' FREEDOM OF EXPRESSION AND ASSOCIATION.

Act 10's prohibition against voluntary dues deduction for general employees violates the Wisconsin Constitution. Act 10 prohibits voluntary dues deduction for "general" employees, but allows payroll deduction for union dues of public safety employees and for any other type of employee organization. Wis. Stat. §§20.921(1)(a)2; 111.70(3g).

The Wisconsin Constitution, Article I, Section 3, protects free speech. "Every person may freely speak, write and publish his sentiments on all subjects...and no laws shall be passed to restrain or abridge the liberty of speech...." The Wisconsin Supreme Court has specifically recognized the importance of allowing equal access to dues deduction where dues deduction is allowed. "While the majority representative may negotiate for check off, he is negotiating for all the employees, and if check off is granted for any, it must be granted for all." *Board of School Directors v. WERC*, 42 Wis.2d 637, 649, 168 N.W.2d 92 (1969). The Court reiterated its finding in *Milwaukee Federation of Teachers v. WERC*, 83 Wis.2d 588, 266 N.W.2d 314 (1978) and identified the potential constitutionality issue, but did not address it.

There cannot be any doubt that access to payroll deduction implicates the right to free speech. *See, UFCW Local 99 v. Brewer*, 817 F.Supp.2d 1118 (D.Ariz. 2011) (law excluding union deductions for political purposes violates First Amendment); *see also, Citizens Against Rent Control v. City of Berkeley*, 454 U.S. 490 (1981) (voluntary contributions to group engaged in political activity is expression protected by First Amendment). Act 10 is distinguishable from the regulations in *Ysursa v. Pocatello Educ. Ass'n*, 555 U.S. 353, 358-59 (2009), since it specifically carves out one type of expressive association, "general" employee unions, to exclude from payroll deduction.

Courts have found that use of payroll deduction systems implicates access to nonpublic forums. *See e.g. Pilsen Neighbors Community Council v. National Consumers Foundation,* 960 F.2d 676 (7th Cir.1992) (use of state's payroll deduction system); *United Black Community Fund v. City of St. Louis,* 800 F.2d 758, 759 (8th Cir. 1986) (use of city's payroll deduction system).

When the law discriminates against payroll deduction by an identifiable group that is engaged in the business of speech, heightened or strict scrutiny is applied to determine whether a challenged regulation violates the right to free speech. *Bailey v. Callaghan,* 873 F.Supp.2d 879, *16-*18 (E.D. Mich. 2012); *See also UFCW Local 99 v. Brewer,* 817 F. Supp.2d 1118, 1123-27 (D. Ariz. 2011) (applying strict scrutiny).

Thus, where a law places restrictions on an employee's ability to donate through payroll deductions to an organization depending upon the organization's identity it impinges on a fundamental right. It therefore violates the Wisconsin Constitution's provisions protecting its citizen's rights of expression and equal treatment under the law.

IV. THE ANNUAL RECERTIFICATION PROVISIONS OF ACT 10 BURDEN FIRST AMENDMENT RIGHTS AND VIOLATE EMPLOYEES' RIGHT TO EQUAL PROTECTION

Where the State has provided public employees the right to select a representative, the ability to exercise that right is an exercise of freedom of association which cannot be penalized. The Act 10 annual recertification election requirement does just that.

Under Wis. Stat. §111.70(4)(d)3.b, recertification elections must be held annually or "general" employees' representatives are automatically decertified. The statute requires that the Commission "assess and collect a

certification fee for each election conducted" and credit the funds "to the appropriation account under section 20.425(1)(i), not to administer elections." Only "general" employees must annually expend resources on an election process to exercise their right to select a representative.

Moreover, Act 10 skews the elections against employees favoring union representation. The representative union loses recertification unless it receives 51%, "of all of the general municipal employees in the collective bargaining unit," even employees not voting. If 70% of employees vote and the certified representative is selected by 70% of those voting, the representative is decertified. Under these provisions virtually no president or member of Congress would have been elected.

Because the freedom of association is at stake, the annual recertification provisions can only be justified on the basis of a compelling state interest. Where election procedures differ to deprive citizens of fundamental rights, the election procedures violate the Fourteenth Amendment of the United States Constitution. "Making it *more* difficult for certain racial and religious minorities [than for other members of the community] to achieve legislation...was 'no more permissible than [is denying members of a racial minority] the vote, on an equal basis with others." *Washington v. Seattle School District No. 1*, 458 U.S. 457, 470 (1982) (emphasis in original); *see also Hunter v. Erickson*, 393 U.S. 385 (1969). The same principles apply to governmental structures which threaten fundamental rights. *Northville Downs v. Granholm*, 2009 U.S. Dist. LEXIS 14857, *27 (E.D. Mich. 2009) (same principles apply to state provisions which "involve a fundamental right such as travel or marriage nor a fundamental interest such as … a First Amendment right").

Where a state chooses to confer the right of referendum on its citizens, it is "obligated to do so in a manner consistent with the constitution." *Meyer v. Grant,* 486 U.S. 414 (1988). *See Gray v. Sanders,* 372 U.S. 368, 379

(1963) (although Georgia not obliged to adopt a state primary procedure, once it has done so the state was required to give "all who participated in the election. . .an equal vote. . ." *See also*, *Cipriano v. Houma*, 395 U.S. 701 (1969).

Here, Act 10 provides that general employees' selected representatives may be removed annually even if no employee seeks an election and the vast majority reaffirms their selection. If 70% of the 70% voting select union representation, they will be defeated by a 30% vote against representation. This result runs afoul of basic voting rights:

> In effect, the political-process doctrine hews to the unremarkable notion that when two competitors are running a race, one may not require the other to run twice as far or to scale obstacles not present in the first runner's course.

Coalition To Defend Affirmative Action v. Regents of University of Michigan, 701 F.3d 466, 15-16 (6th Cir. 2012).

The recertification procedure applies only to "general" public employees in Wisconsin, not to any other employees anywhere in the country. Having provided for selection of representatives, Act 10's separate and discriminatory requirements for voting to select a collective bargaining representative violate employees' rights to free association and equal protection of the laws of Wisconsin.

V. CONCLUSION

Act 10's array of bargaining prohibitions and mandatory annual elections cannot stand against the rights of free association and free speech secured to the citizens by the federal and Wisconsin Constitutions.

Dated this 31st day of January, 2013.

Respectfully submitted,

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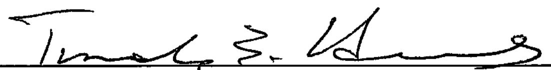

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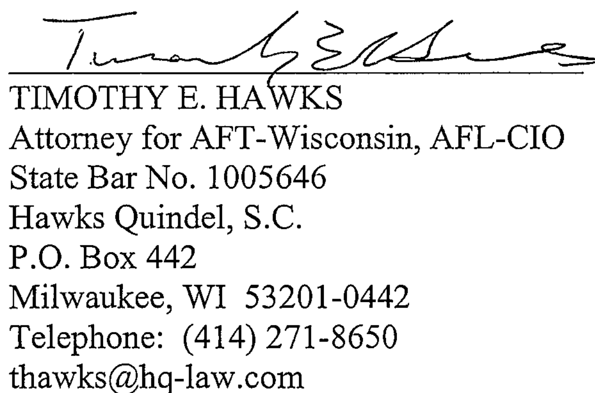

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