

An Analysis of Senate Bill 5: Restoring Taxpayer Rights in the Public Workplace as Local Governments Seek Higher Taxes

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The passage of Senate Bill 5 (SB5) is a monumental step on behalf of our right as taxpayers to efficient government. From the moment Ohio's collective bargaining law was passed in 1983, the interest of taxpayers took an increasing backseat to the interest of labor unions. The operating premise labor unions worked under over the last 28 years is that taxpayers should be required to fund government no matter the cost or the economic realities of their lives.

SB5 ends that faulty and costly premise.

In contrast to the greed of labor unions, most government workers provide valuable services whether they serve as police officers, firefighters, or as non-uniformed public servants such as teachers and health care workers. Most government workers provide those services diligently and, for our safety forces, in dangerous conditions. Nothing about SB5 aims to denigrate government workers or discount the contributions and sacrifices they make for Ohio.

Rather, SB5 simply acknowledges that we can no longer afford to compensate government workers or manage government worksites in the same costly way we have been doing since 1983. Labor unions should not have the power to force tax hikes on taxpayers. For our state and local communities to be strong again, we must realign government costs to tax revenue, not the other way around.

The passage of SB5 unquestionably gives government elected officials and managers the long needed ability to more effectively and efficiently run their workplaces. SB5 may be viewed as finally restoring a fair balance between management and labor in the public workplace similar to that which exists in the private sector in Ohio. The claim by opponents of SB5 that Ohio's elected officials and managers will somehow resort to iron-fisted control of the workplace akin to the early 1900s is disingenuous, at best.

In addition to the now ever-present laws and regulations protecting workers from discrimination, environmental harm, wage and hour abuses, civil service violations, and other bad practices, the proliferation of social media and other transparency tools make it highly unlikely that government worker abuse can occur without being made public. Of course, government, like the private sector, will always have bad actors and no law, regulation, or union will ever be able to eliminate them. Conversely, so long as workers have access to basic legal protections, taxpayers should not have to fund an extra layer of bureaucracy or union-friendly collective bargaining schemes.

For too long, weak management bargaining practices have allowed permissive topics of bargaining to become mandatory topics for bargaining. SB5 properly restores many traditional management rights. Importantly, in the case of the public employer, “management” is the taxpayer. This restoration of taxpayer rights should allow government managers to more effectively and efficiently manage their provision of government services.

A significant amount of press attention has surrounded the claim by the unions that SB5 will decrease the safety of law enforcement and fire fighting personnel in Ohio. The unions claim that police and fire chiefs and their political leaders intentionally will cut their access to personal protective equipment (like bullet proof vests and certified turnout gear), reduce their training, and make decisions that put them at greater risk of harm. Beyond the reality that no leader would intentionally make decisions that recklessly cause injury or death to those he leads, the national data from the Federal Bureau of Investigation, the National Enforcement Officers Memorial Fund, and the U.S. Fire Administration do not support the unions’ claim that collective bargaining increases the safety of law enforcement and fire fighting personnel.

Specifically, in the states that allow safety forces to collectively bargain, roughly 729 firefighters, or less than 1/10th of 1 percent, out of 830,690 paid and volunteer firefighters died on the job from 2002-2010. In the states that don’t allow safety forces to collectively bargain, roughly 218 firefighters, or less than 1/10th of 1 percent, out of 219,402 died on the job from 2002-2010.

As for law enforcement, there is no difference in safety for those officers who bargain collectively versus those who do not. In the states that allow safety forces to collectively bargain, roughly 831 officers, or less than 2/10th of 1 percent, out of 451,455 officers were feloniously killed on the job from 2000 to 2010. In 2009, 48,153 officers, or 10 percent, suffered an assault on the job. In the states that don’t allow safety forces to collectively bargain, roughly 176 officers, or less than 2/10th of 1 percent, out of 100,227 officers were feloniously killed on the job from 2000 to 2010. In 2009, 8,146 officers, or 8 percent, suffered an assault on the job.

It goes without saying that the loss of even one police officer or firefighter in the line of duty is one too many. Much work has been done over the last three decades to increase safety and decrease risk. This work has been done away from the collective bargaining table. For example, in the fire service, safety improvements focused on building and fire codes requiring less flammable material, the widespread use of fire sprinklers, increased training and physical fitness, and the overall decrease in structural fires. Today, approximately 75 percent of emergency calls to fire houses involve non-fire related events (i.e., EMS runs and auto accidents). For law enforcement, the largest driver in risk reduction is the overall decrease in crime that began in the early 1990s across the United States.

Based on these data points, the bottom line is that collective bargaining has little impact on the overall safety of law enforcement personnel. No balanced study shows that collective bargaining has a measurable impact on safety.

On other provisions opposed by the unions, as previously stated in **Six Principles for Fixing Ohio**, we do not believe the provisions in SB5 that eliminate the right to strike for non-safety government workers and binding arbitration for stalled contracts, while good steps, will have the large fiscal impact the proponents of those provisions claim. Neither provision saw much use over the last eleven years and thus can hardly be responsible for the gold-plated compensation packages that are causing fiscal woes today.

In a few cases, however, it removes the power of an arbitrator to recklessly grant compensation package increases knowing the government unit lacked the funds to pay for those increases. SB5 will protect governments from an arbitrator's callous indifference – "That's not my problem, just go increase taxes" will not be a phrase uttered by an arbitrator after SB5 passage.

The provisions prohibiting "fair share fees" and deductions for the unions' political action committees (PAC) likely may have the largest impact on the future costs of government compensation packages. With less revenue, the unions won't be able to exert the same level of undue influence those entities exert today. The PAC provision will lesson the political power, acquired via contributions to politicians at all levels of government, thereby making it more difficult for the unions to manipulate the legislature and local government bodies.

Additionally, we know of no private sector equivalent where employees can donate to a PAC other than the PAC of the employer, which in the case of governments are taxpayers. Union PAC funds certainly are not spent to benefit taxpayers. In fact, many public employees who have such fees thrust upon them find such forced contributions offensive.

The contract reporting requirement is a necessary requirement, but it does not appear to require sufficient information or transparency. As suggested in **Six Principles**, all government entities should have to provide taxpayers a full cost accounting that states the total cost of all collective bargaining contracts entered into with unions. It is far too easy to mislead taxpayers by using elements of the contract without proper context to determine whether the elements are reasonable or not and what impact those elements really have on taxpayers.

This cost transparency is especially important now, as homeowners across Ohio will be receiving their 2011 home reappraisals from county auditors over the summer. Most experts expect the 2011 reappraisals to decrease the worth of homes, resulting in the loss of home equity or pushing mortgages underwater. With many local governments and school districts seeking levy increases, homeowners have a right to know how their taxes are being spent. After all, without providing specific

contract cost details, it is fundamentally unfair to ask homeowners to shoulder an even higher tax burden to pay for government compensation costs at a time when their homes are worth less (not to mention job losses, pay cuts, increased consumer costs, and other economic hardships).

We also applaud the replacement of “step increases” and longevity bonuses with a pay for performance system for most government workers. The key, which is no different than in the private sector, is the resolve to use such a system honestly and not resort to across the board raises because managers abhor being “the bad guy.” If pay increases under a pay for performance system mirror the current system, then the exercise will have been one done in futility.

The reduction in sick leave payouts is also important. As New Jersey Governor Chris Christie has noted, sick leave is for when workers are sick. It was not and never should have become a windfall payout component for workers who “bank” their time only to cash it all in at retirement. If you are sick, you should use it; if you are not, you should lose it.

One note of uncertainty surrounding the application of SB5 involves whether it applies to Home Rule communities. Specifically, given the Ohio Constitution’s Home Rule Amendment, can Home Rule communities trump SB5 via a specific legislative act of their own? The issue is whether SB5 passes the four-prong “General Law” test. Another area of uncertainty is whether SB5’s elimination of longevity pay applies to local governments. Because this analysis is not a legal analysis, we will defer to legal experts to provide guidance on these issues. If the Home Rule Amendment can trump SB5, then the impact of SB5 could be greatly diminished given the number of Home Rule communities that may decide to nullify the hard fought taxpayer gains embedded in SB5.

In terms of fiscal savings, we continue to believe that the full repeal of Ohio’s public collective bargaining law would have had the largest impact on costs. Because the primary driver of government compensation costs involves wages, the continued bargaining of wages will prohibit government entities from implementing the cuts needed to realign public sector pay to both the private sector and to the new economic normal of reduced tax revenues.

In order to estimate the potential fiscal savings from SB5, we used actual cost data from three government entities: the State of Ohio, the City of Eastlake, and Dublin City Schools. For purposes of the estimate, we assumed all government entities in Ohio would be bargaining new contracts now and the cost savings would be recognized over the 2012-2013 biennium. Obviously, not all of these contracts will expire and be subject to bargaining, but we felt it was important to show the estimated cost savings once all government contracts were bargained under SB5.

For the State of Ohio, the Department of Administrative Services’ (DAS) “Senate Bill 5 Fiscal Analysis” provides the most credible figures, as that analysis is based on

actual 2010 payroll data. As we concluded in **The Grand Bargain is Dead: The Compensation of State Government Workers Far Exceeds Their Private-Sector Neighbors**, state government workers currently pay 17 percent of their health care costs. The DAS analysis similarly concluded that state government workers pay 15 percent of their health care costs. Using either figure, SB5 would provide no health care savings.

On longevity pay, in **The Grand Bargain Is Still Dead**, based on the 2009 payroll data, we estimated the annual cost of longevity pay at \$57,590,000. The DAS analysis found that longevity pay cost taxpayers twice as much annually, or \$115,400,000. Because DAS has access to detailed information, we will assume its estimate is more accurate.

Finally, on the elimination of step increases, we agree with the DAS analysis that, even though the current contract does not include such pay increases, future contracts could add step increases back, especially as the economy recovers. Thus, SB5 does save the state roughly \$76 million per year in future years.

For state government workers, SB5 could save taxpayers over \$191,000,000 per year, or approximately \$3,293 per state government worker. This figure does not include the limitation SB5 placed on sick leave payouts. Without access to every state worker's payroll file, estimating the savings on sick leave is impossible. Because taxpayers currently do not pick-up any percentage of state government workers' pension contributions, there are no SB5 pension pick-up savings. If the per worker savings for the roughly 58,000 state government workers are assumed for public higher education workers, the higher education savings would total \$237,730,000.

For the City of Eastlake, city employees currently pay 8 percent of the cost of health care. SB5 would require them to pay an additional 7 percent. The cost shift would save taxpayers \$110,251, or 1.1 percent of its total personnel costs.

Eastlake pays city employees longevity pay. If SB5's longevity pay provision applies to local governments, Eastlake taxpayers would save \$101,100, or 1.1 percent of its total personnel costs.

Eastlake has a significantly accelerated step increase schedule that brings new workers (within five years of service or less depending on the classification) rapidly up the same pay scale as experienced workers. Because of this factor, credibly estimating the savings from the elimination of step increases is not possible.

On pensions, Eastlake currently picks-up 1 percent of city employees' pension contributions. Ending that practice would save taxpayers \$67,383, or .7 percent of its total personnel costs.

In total, SB5's total annual savings for Eastlake could total \$278,734, or 2.9 percent of its total personnel costs. This savings amounts to roughly \$2,248 per employee. Eastlake also has a sick leave liability balance of approximately \$2,000,000, or \$16,129 per employee.

Using Eastlake's figures, the estimated statewide savings for all local governments, excluding K-12 public schools, would total \$699,128,000.

For Dublin City Schools, most school district employees already pay 15 percent of their health care costs. For the 473 employees who pay 10 percent of the costs, taxpayers would save \$136,082 by raising their share to 15 percent. This cost represents .1 percent of Dublin City Schools' \$140,272,542 personnel budget.

In the last year, Dublin City Schools spent \$142,125 on longevity pay, which is another .1 percent of the personnel budget.

The average step increase in Dublin City Schools is 1.9 percent. Assuming half of the 1,890 employees get the average step increase each year, elimination of step increases would save taxpayers \$1,009,392, or .7 percent of the total personnel budget.

For most employees, taxpayers do not bear a pension pick-up cost. Taxpayers do cover the full 10 percent of the employee pension contribution for 61 school district employees. The aggregate cost of this pension pick-up is \$692,716, or .5 percent of the personnel budget.

SB5's annual savings for Dublin City Schools could total \$1,980,315, or 1.4 percent of its total personnel costs. This savings amounts to roughly \$1,048 per employee. Dublin City Schools also paid out \$567,790 in sick leave to 31 employees, or \$18,316 per employee.

Using the Dublin City Schools figures, the estimated statewide savings for Ohio's K-12 public schools would total \$235,800,000.

Based on the above examples, the statewide annual SB5 savings are estimated to be \$1,363,658,000. Due to the compounding nature of step increases, the biennial savings would exceed \$2,727,316,000. Using a blended sick leave payout rate for Eastlake and Dublin City Schools, the statewide sick leave payout liability totals approximately \$11,407,000,000.

It goes without saying, however, that savings will be driven by how effectively government managers and their leaders use the tools they are being given in SB5. As the saying goes, you can lead a horse to water, but you cannot make it drink. Taxpayers can only hope that government managers and their leaders use the SB5 tools to tackle the ever-increasing compensation package costs of government workers. For taxpayers, failure is not an option, as it will result in higher taxes.