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BACK TO THE PAST:

**The Fiscal Threat of Reversing
Act 10 in Public Education**





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Executive Summary

Act 10 was the signature reform that epitomized Scott Walker's tenure as Governor of Wisconsin. The legislation—which limited the collective bargaining power of public sector unions among other things—was the subject of great protest at the time of its passage, even leading some Democratic legislators to flee the state to avoid a vote.¹ With recent changes in the composition of the state Supreme Court, there has been renewed interest on the left to reign in—or reverse—the landmark legislation. A new case has been filed that challenges the constitutionality of Act 10, and new Supreme Court Justice Janet Protasiewicz is on record saying that she believes Act 10 is unconstitutional, though she “may” recuse herself were a case related to the Act to come before her.²

At a time when this landmark reform could be reversed, it is vital to understand what the effects of Act 10 have been in Wisconsin, and what the likely outcomes would be from reversing it. Pulling together a decade of research on the legislation from WILL, as well as new cost

estimates using data available from DPI, we find that the financial implications of ending Act 10 would drive a substantial hole in school district budgets, ultimately impacting the educational experience of kids around the state.

Among the key findings of this report:

- **Student-teacher ratios have not been negatively affected by Act 10.** The number of students per teacher in Wisconsin has stayed relatively constant at about 13.2 students per teacher.
- **The decrease of public sector unions has stabilized.** While there was a substantial decline in the number of unions in the immediate aftermath of the passage of the law, recent declines have been far more moderate.
- **Restoring collective bargaining for teacher salaries could cost districts and the state nearly \$650 million annually.** This number is based on the difference in the rate of growth in teacher salaries observed from 2001-2011 compared to 2011-2021.
- **Eliminating employee contributions to retirement would cost districts and the state about \$422 million annually.** Based on inflation-adjusted comparison of retirement spending in 2009 versus 2022.
- **Eliminating employee contributions to healthcare would cost districts and the state about \$560 million annually.** Based on inflation-adjusted comparison of healthcare spending in 2009 versus 2022.
- **Numbers are conservative estimates of the total cost.** This study does not take into account the costs to municipalities from repeal, nor the salary costs for non-teachers.
- **An end to Act 10 would likely lead to tough decisions for districts.** One Superintendent we spoke with said that ending Act 10 would likely lead to a need for larger class sizes, cuts to popular programs, and an inability to offer higher compensation for high-demand teaching positions.

Few single pieces of state-level legislation have garnered as much attention and controversy in the 21st Century as Wisconsin's Act 10. Passed by Republican Governor Scott Walker over the strong objections of Democrats,³ the legislation introduced several important reforms to public sector unions around the state. Twelve years later, the legislation remains controversial. Supreme Court Justice Janet Protasiewicz—elected to the Court in 2023—has said that she believes the legislation may be unconstitutional,⁴ giving new hope to those who would like to see the law off the books. In November, seven unions representing teachers and other public sector workers filed a lawsuit with that goal.⁵ But what would an overturn of the legislation mean for Wisconsin and its taxpayers?

In the last decade, WILL and others have conducted extensive research that helps to answer that question. In this paper, we review the existing work on what Act 10 has meant to the state and provide updated data in some of the areas we've examined previously. In the end, we find that overturning Act 10 could have a devastating effect on Wisconsin taxpayers, as well as the budgets of local school districts.

EXISTING RESEARCH

As one of the more significant policy shifts at the state level in recent decades, Act 10 has been the subject of relatively extensive academic research. One of the more intriguing studies focused on the ways in which Act 10 enabled school districts to move away from traditional “step and ladder” pay structures to systems that better rewarded skilled teachers and those in in-demand fields.⁶ Author Barbara Biasi found that teacher quality improved in school districts that moved toward these sorts of pay systems. This resulted in better achievement for students, contrary to the predictions of many who thought Act 10 might serve as a detriment to student achievement.

Other research has also found that Act 10 worked to improve teacher quality. Florida State University Economist E. James Baron examined the number of teaching degrees awarded before and after the passage of the law. He found that the number of teaching degrees awarded increased by approximately 20%, and that this was largely driven by some of the highest quality universities in the state.⁷ Baron also found that this teacher quality improvement led to increases in student outcomes in Wisconsin schools. This has likely changed as the number of students seeking teaching degrees has declined around the nation.

Of course, not all the research has reached positive conclusions. Biasi has also found that the gap in pay for male and female teachers has increased since Act 10, possibly because female teachers are more reticent to get into hard salary negotiations.⁸ Outside of education, Ford and Ihrke⁹ surveyed elected officials around Wisconsin, and came away with a muddled assessment of the positivity of the law due to the partisan lens through which it is often viewed. They do note, however, that long-serving officials who had experience both before and after the law’s passage tended to take a more positive view.

At WILL, we have also conducted a number of studies of the legislation over the past decade. In 2016, we partnered with Marty Lueken of EdChoice to examine the truth of many of the talking points surrounding the negative effects of the legislation.¹⁰ The study found that Act 10 had not had a significant impact on student-teacher ratios or average teacher experience. The study did find a negative effect on base salaries for teachers—consistent with some of the national research mentioned above. Another WILL study in 2018 used the date of expiration of the last district Collective Bargaining Agreement (CBA) to examine any relationship between the end of collective bargaining and student achievement. We found that districts had a slight increase in math proficiency after the expiration of CBAs, but no effect on district graduation rates.¹¹

A final study worth mentioning examined what has happened to public sector unions in Wisconsin since the passage of the law.¹² Examining the data in 2018, we found that the number of public sector unions annually holding recertification elections had declined from 540 in 2014 to 369 in 2018—a 32% decline.¹³ Among teachers’ unions, the decline was from 305 to 261—about 14.4%. This question will be reexamined in the following section.

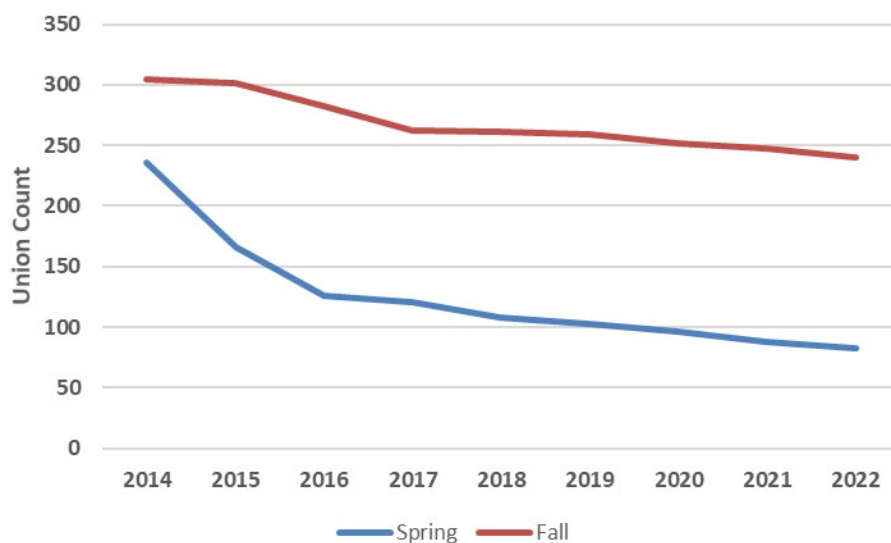
UNIONS

Under Act 10, public sector unions in Wisconsin must hold annual recertification elections. In order for the union to be certified, more than 50% of the total union membership—including those who choose not to vote—must vote to keep the union. Because these elections are held annually, they can provide good insight into the number of public sector unions operating over time in the state.

There are two separate sets of elections each year—in April and November. April elections are primarily for municipal employees. For example, the Department of Public Works vote is held in April. Fall elections are primarily for school district-related employees, including teachers' unions and janitorial staff. A few others are also included in the Fall, like the union of state prosecutors. Data on the results of these annual elections is available from the Wisconsin Employment Relations Commission.¹⁴ The Figure below shows the number of unions voting on recertification each year going back to 2014. 2014 is chosen as the starting point because that is the year at which most litigation surrounding the implementation of Act 10 had been settled.

The number of unions recertifying in both the Spring and Fall elections has continually declined over time. In 2014, 541 unions attempted recertification. That number declined to 323 in 2022—a drop of about 40.29%. However, it is important to note that after relatively precipitous drops in the first few years, the rate of decline has slowed. Consistent with our previous work on this topic, it appears that unions that withstood initial votes tend to be relatively strong.

Figure 1. Union Recertification Votes by Year



TEACHER WORKFORCE

Probably the most studied aspect of Act 10 has been its impact on teachers. Prior to the passage of the law, there were claims that the legislation would be devastating to the state’s teaching workforce, and that teachers would leave the profession in droves. However, Wisconsin has more teachers than in 2002—a decade before Act 10 was passed. Table 1 below lists the number of teachers in the state according to DPI from 2002 to 2022 in five-year increments.¹⁵

The high-water mark for teaching staff in this dataset was 2012—the year of Act 10’s passage. So, at this point, it is possible that Act 10 detractors could still have a reasonable argument. However, we must also account for the change in the number of students in the state that has occurred over this time frame. Since 2012, the number of students enrolled in Wisconsin’s public schools has declined by more than 57,000. The figure below depicts the student-teacher ratio in the state over the same time frame.

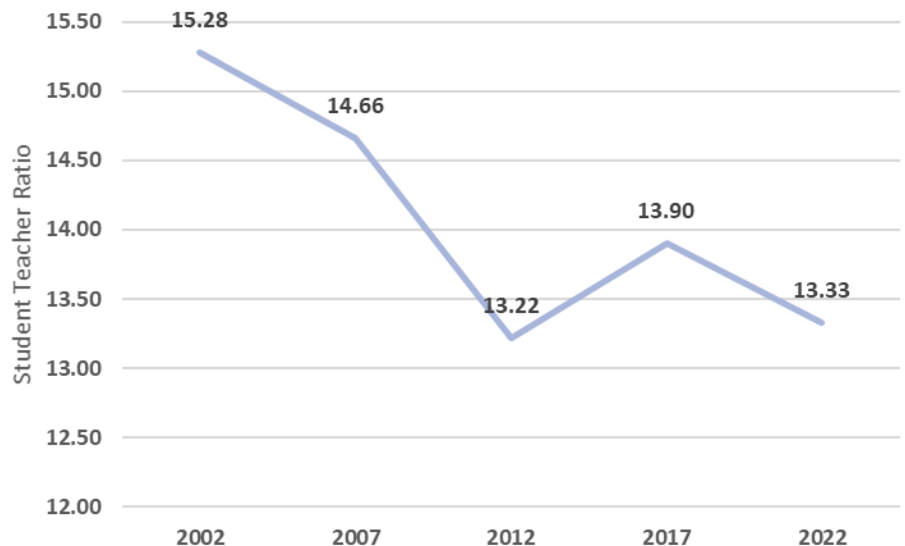
Because of declining enrollment, the student-teacher ratio has decreased by nearly 2 students since 2002. Today, there is a teacher for, on average, every 13.33 students. Of course, school districts are doubtless dealing with a challenging environment in hiring teachers, but this is more of a national trend than something specific to Wisconsin and Act 10.¹⁶

Indeed, as of the most recent data from the Digest of Education Statistics,¹⁷ Wisconsin remains well below the average national student-teacher ratio. Neighboring Illinois, Michigan, and Minnesota all have more students per teacher than Wisconsin. Wisconsin ranks 22nd overall in the nation for the lowest student-teacher ratio according to data from Public School Review.¹⁸

Table 1. Teaching Staff Count by Year

Year	Staff
2002	57,550
2007	59,796
2012	65,911
2017	61,864
2022	61,734

Figure 2. Student-Teacher Ratios Wisconsin, 2002-2022



INTERVIEW

Joe Garza is the Superintendent of the New Berlin School District. He agreed to answer some questions for us on what an end to Act 10 would mean to his district.



What has happened with district spending on healthcare and retirement since Act 10?

"In healthcare and retirement costs alone, the District is saving over \$5,000,000 compared to pre-Act 10."

What have you used the savings from Act 10 for?

"Student programming including courses in skilled trades, Project Lead the Way college level coursework like a CNA lab in partnership with WCTC, computer science, STEM courses, 1:1 student technology, among others. We have also expanded our career and service-based learning co-curricular activities with programs such as robotics, SKILLS US, among others, since then too."

We have also been able to manage our overall finances in order to appropriately compensate based on local markets for hard to fill positions like computer science, Project Lead the Way, etc. We have also been able to manage our capital maintenance plans and pre-pay a portion of our long-term debt."

In your judgment, would the end of Act 10 mean substantial cuts to district programs that benefit kids?

"If we were to return to Pre-Act 10 finances, we would need to cut and adjust in the following areas: (just for a start), funding for capital maintenance, funding for 1-to-1 technology, and funding for our non-reimbursed College and Career Related programming. We would also likely see a 10-15% reduction in the Teaching and Learning budget and have to increase class sizes."

Has Act 10 allowed the district to be more creative in the hiring of teachers/staff?

"If the unions would recertify and we return to the old CBA format, we likely would lose our ability to use the following strategies for hiring and retaining high quality staff: offering higher compensation for hard to fill positions, offering merit pay and the ability to bonus outstanding efforts by employees, offering to compensate for specific continuing education, and ability to assign teachers to special leadership roles."

Benefits & Salary

A person wearing a grey blazer is seated at a wooden desk. Their hands are visible; the left hand rests on a silver laptop, and the right hand is near a black calculator with orange buttons. Several white papers, including what appears to be a tax form with numbers like 19.82, 9.37, 9.89, and 1.49, are scattered on the desk. A stack of US dollar bills is also visible in the lower-left corner. The background is softly blurred, showing a dark grey wall.

TEACHER SALARY

As mentioned in a previous section, Lueken, Flanders, and Szafir (2016) found that teacher pay had declined slightly since the passage of Act 10, while benefits had decreased more substantially. The benefits decline was a natural result of the legislation, as teachers were now required to contribute a percentage to their healthcare benefits. In this section, we examine what would have been expected with regard to teacher pay had Act 10 not been passed. Figure 3 below shows average teacher pay in Wisconsin from 1999 through 2021-22 using data from the Digest of Education Statistics.

While teacher pay has continued to increase since Act 10, there is a significant flattening of the growth in the aftermath of the passage of the law in 2011. From 2001 to 2011, teacher pay increased by approximately 28.33% from just over \$42,000 to about \$55,500. From 2011 to 2021, pay increased by about 9.6% from \$55,500 to about \$61,000. It is also worth noting that teacher pay has not kept up with inflation during this time frame despite continued increases in public school spending. WILL has noted in previous work that spending on school district bureaucracy has eaten away at a lot of the increases.¹⁹

Were teacher pay to have continued the rate of growth observed from 2001-2011, average teacher salaries in Wisconsin today would be expected to be approximately \$71,211, a difference from actual average teacher pay of about \$10,391. Given the size of the teaching workforce in the state of 62,482, this works out to an increase in costs of \$649,259,321 annually. In other words, if the collective bargaining provisions for salaries were brought back, we would expect school districts to be on the hook for nearly \$650 million in annual new costs across the state.

Figure 3. Real Teacher Pay, 1999-2021

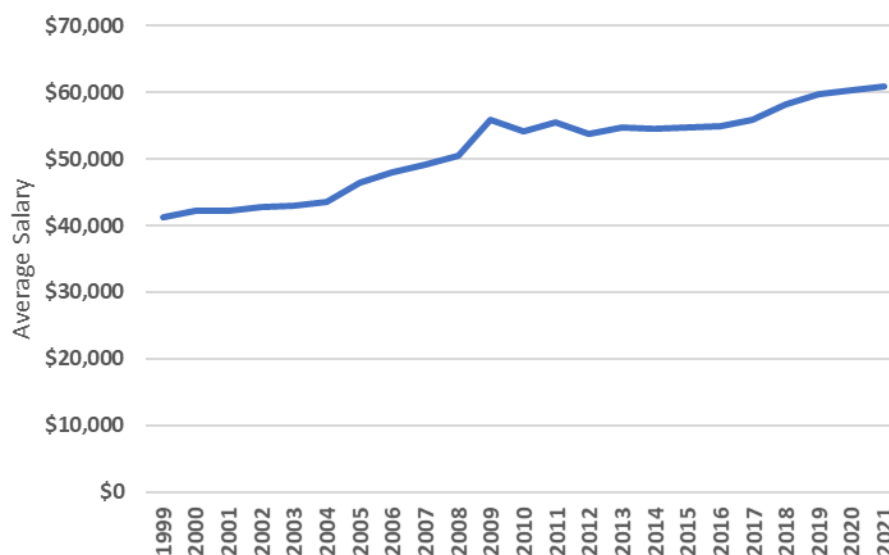
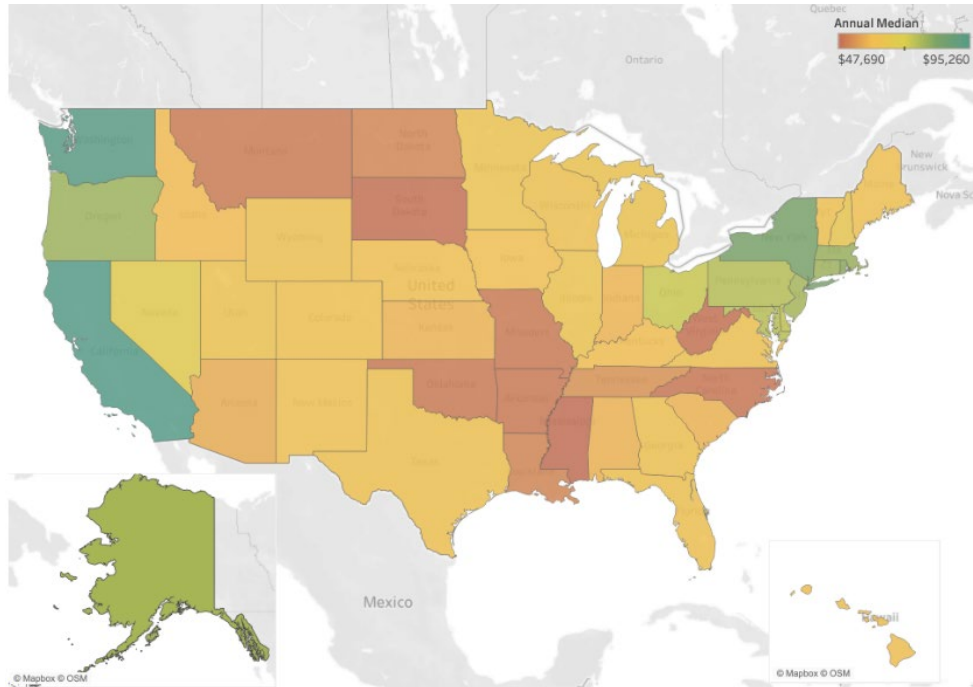


Figure 4. Median Teacher Pay by State, 2022



Note that salaries of other district employees are also collectively bargained, though the salary changes are more difficult to isolate as they are not provided by NCES. This means the new costs here represent a very conservative estimate of the total new costs that would result were collective bargaining restored.

Even after the reforms, Wisconsin remains in the middle-of-the-pack when it comes to teacher pay. Figure 4 shows median teacher pay by state, ranked in four categories using 2022 data from the Bureau of Labor Statistics.²⁰ Wisconsin ranks 26th overall in terms of median teacher salary (\$61,550). The state is well below states like California (\$95,260), but also well above states at the low end of the spectrum like South Dakota (\$48,010).



BENEFITS

As noted in the previous sections, some of the major reforms of Act 10 were requiring employee contributions to their health insurance and retirement. To determine what would happen to school district budgets if these contributions were to go away, we examined data from DPI's annual Expenditure Reports for each school district in the state. We compared district spending on health insurance and retirement in the 2009-10 school year—one of the last school years completely prior to Act 10—and the 2021-22 school year—the most recent year for which data was available.

Even before adjusting for inflation, the changes in spending on retirement are quite staggering. These numbers are depicted in Table 2.

Table 2. Non-Inflation Adjusted Health & Retirement Spending

	Total Spending	Change
Total 2009 Retirement	\$709,654,166.24	—
Total 2022 Retirement	\$550,144,988.49	-\$159,509,177.75
Total 2009 Healthcare	\$1,525,352,114.19	
Total 2022 Healthcare	\$1,529,554,541.11	\$4,202,426.92

Without inflation adjustment, school districts are spending \$160 million less on retirement contributions than they were in 2009-10. When it comes to health insurance, spending is slightly up over 2009-10. However, this increase of 0.14% is miniscule when one considers that American healthcare costs have risen, on average, by 50% from 2008 to 2022.²¹

At the next stage of this analysis, we take inflation into account. According to the Bureau of Labor Statistics, inflation has increased costs by approximately 37% since 2008. Without the changes of Act 10, we make the assumption that spending levels would have stayed essentially the same in each district with only inflationary increases. Given what we have seen in school spending nationally over this time frame, this is likely a conservative assumption. This information is shown in Table 3.

Table 3. Inflation Adjusted Health and Retirement Spending, 2008-2022

	Total Spending	Change
Total 2009 Retirement	\$972,226,207.75	—
Total 2022 Retirement	\$550,144,988.49	\$422,081,219.26
Total 2009 Healthcare	\$2,089,732,396.44	
Total 2022 Healthcare	\$1,529,554,541.11	\$560,177,855.33

After inflation adjustment, districts would be expected to spend nearly \$1 billion annually on retirement alone by 2022 without Act 10. The difference from actual spending here is more than \$422 million. Healthcare would be expected to have exceeded \$2 billion by 2022. The difference from actual spending on this component is more than \$560 million. Taken together, the end of Act 10 would likely lead to approximately \$982,259,074 in new expenses from retirement and healthcare alone.

A table with the calculated spending difference for each district will be included in an appendix. Table 4 below shows the ten districts that would be expected to have the biggest gap to fill in their budget were this change to happen. Obviously, this closely follows district size, though it doesn't line up exactly along those lines. Milwaukee would have a spending gap of nearly \$100 million on its own. Racine, Kenosha, and Madison would all have spending gaps that exceed \$20 million.

Table 4. Districts with Largest Spending Gap without Act 10

District	Difference
Milwaukee	\$96,978,016.09
Racine Unified	\$35,665,854.27
Kenosha	\$34,879,961.19
Madison Metropolitan	\$24,992,180.64
La Crosse	\$19,463,812.72
Appleton Area	\$18,419,095.21
Waukesha	\$18,308,431.24
West Allis-West Milwaukee	\$14,517,029.22
Neenah Joint	\$12,788,555.81
Green Bay Area Public	\$12,048,806.20

Conclusion



Since the passage of Act 10, Wisconsin school districts have realized substantial savings, while also being given the flexibility to reward effective teachers. Furthermore, over this time period, we've actually seen the student-teacher ratio in the state decline. Between new salary, healthcare, and retirement costs that would likely result from an end to Act 10, school districts statewide would be on the hook for approximately \$1.6 billion in new costs annually. This represents a conservative estimate of the total cost of an end to Act 10. We have not been able to account for the costs to municipalities that would likely face similar cost spikes, nor have we accounted for the salary costs of non-teaching employees in the district.

Given the lawsuit against Act 10, these real-world implications of throwing the law out would necessarily have to be considered, because the legal arguments for ending it would be quite weak.



Endnotes

- 1 <https://www.foxnews.com/politics/wisconsin-republicans-step-up-pressure-on-dems-who-fled-state>
- 2 <https://www.wpr.org/janet-protasiewicz-wisconsin-supreme-court-abortion-politics-democratic-campaign-issues>
- 3 <https://www.npr.org/2011/02/17/133847336/wis-democratic-lawmakers-flee-to-prevent-vote>
- 4 <https://www.jsonline.com/story/news/politics/2023/03/28/protasiewicz-says-act-10-is-unconstitutional-might-recuse-from-cases/70050211007/>
- 5 <https://pbswisconsin.org/news-item/unions-sue-to-reverse-act-10-restrictions-on-teachers-other-public-workers-in-wisconsin/>
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