



WISCONSIN INSTITUTE  
FOR LAW & LIBERTY

**Undertold Stories of Act 10:**  
**How Superintendents Have Used Act 10 to**  
**Reform Public Schools**

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## I. 5 YEARS LATER, AN UNTOLD STORY OF ACT 10

It's hard to believe five years ago this month Governor Scott Walker signed 2011 Act 10, i.e. the Budget Repair Bill, into law. The mere introduction of the bill on February 14, 2011 set off massive protests at the state capitol, led to 14 Democrat State Senators fleeing for Illinois in an attempt to delay the vote on the bill, and culminated in two separate – and unsuccessful – recall elections of Governor Walker and several Republican state senators.

Coming into office in January 2011, Governor Walker inherited a \$3.6 billion state budget deficit.<sup>1</sup> To solve this fiscal crisis, Walker reduced state aid to local governments - \$792 million to school districts - but, in exchange, he gave local governments' new tools to curb costs. Known as "Act 10," the bill placed strict limitations on the ability of public sector unions to collectively bargain with their public sector employers.

Specifically, Act 10 amended the law that governs collective bargaining between municipal employers and employees – except for police and firefighters. Employers, such as school districts, are prohibited from bargaining with a union, which represents public employees. The lone exception is for base wages up to inflation.<sup>2</sup> Act 10 also made meaningful changes to health insurance and premiums for pensions. Employees must pay 5.8% of the total contributions to their pension, and at least 12.6% of their health care premiums.<sup>3</sup>

5 years later, the law has saved taxpayers billions.

A study by the John P. MacIver Institute concluded that Wisconsin taxpayers have saved \$5.24 billion as a result of Act 10.<sup>4</sup> In this analysis, the state saved \$3.36 billion by re-

quiring state employees to contribute to their retirement and local governments were able to save an "additional \$404.8 million total by taking common sense steps like opening their employees' health insurance to competitive bidding."<sup>5</sup>

The fiscal successes of Act 10 have garnered all the headlines – and rightfully so. But, there remains an untold story, directly affecting our children in the public school system.

With collective bargaining so limited and the unions so weakened, superintendents of public schools no longer have to seek approval from public unions in order to make changes to the administration of their schools. They are free to adopt the best practices of teacher pay and classroom management. They could hire and fire teachers according to criteria other than the rigid policies from a union CBA. The words "seniority" and "teacher tenure" could be terms of the past for many districts.

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As Wisconsin reaches the 5 year anniversary of Act 10, the Wisconsin Institute for Law & Liberty (WILL) examined school districts across Wisconsin to determine how superintendents are using Act 10 to reform the public schools.



We searched<sup>6</sup> the internet for examples of how Act 10 was used by the 100 largest school districts and interviewed some of the leading superintendents. This search is not scientific and may not be representative of all 424 school districts in the state. What this report does do is give a greater insight on how superintendents are using Act 10.

Our search revealed three broad themes on how superintendents are using Act 10:

1. Merit pay for teachers,
2. Flexibility for hiring, firing, and management,
3. Greater collaboration with teachers

## II. MERIT PAY FOR TEACHERS

Before Act 10, union collective bargaining agreements enshrined a – mostly – uniform teacher compensation system. Elected school boards and superintendents had little ability to change it. Known as “steps and ladders,” teachers were paid according to seniority in the classroom and additional education degrees. It rewarded longevity in teaching – regardless of talent, student outcomes, or background – and number of education certifications and degrees – regardless of value to the school.

Nick Novak, writing for the Maclver Institute, contended that:

*“[c]ritics have long contended that those two factors don’t reflect the complex skills and strategies successful teachers employ. That disconnect meant the salary system didn’t do enough to encourage teachers to improve their skills or reward those doing a great job.”<sup>7</sup>*

This compensation plan lacked the proper incentives to improve teaching. So, it should be of no surprise that many superintendents threw out the old, union forced “steps and ladders”

compensation scheme in favor of one that rewards performance in the classroom.

For example, Cedarburg School District implemented the well-known method of rewarding teachers through student achievement metrics and teacher evaluation by the administration.<sup>8</sup> They use ten standards of teacher effectiveness, utilized by the Department of Public Instruction, which are a component of each teacher’s merit pay determination. These standards cover most aspects of effective instruction, from demonstrating knowledge of the subject matter to the teacher’s ability to self-reflect.<sup>9</sup> Teachers receiving positive evaluations can receive bonuses ranging from \$500 to \$2,800.<sup>10</sup>

Similarly, at Oak Creek-Franklin School District, the principal evaluates teachers based upon “instructional effectiveness, professionalism, and leadership.”<sup>11</sup> This has the effect of increasing the pay for highest performing teachers from \$78,059 to \$88,304.<sup>12</sup>

Or consider the School District of Milton, last year, agreeing to a new compensation plan because they wanted to attract high-quality teachers.<sup>13</sup> No longer bound by the “steps and ladders,” the district developed a teacher compensation plan to determine teacher pay based on experience, graduate degrees, teacher evaluations, and completing professional credit/development hours. Ultimately, Milton teachers with a graduate degree can earn up to \$77,805 if they score high satisfactory evaluations, take a combination of 108 professional credits or 360 development hours.<sup>14</sup>

Milton is not the only district concerned about attracting the best teachers. Upset with other districts “poaching” their talent, Weyauwega-Fremont School District approved a new salary scheme to, in their opinion, better compensate teachers. The plan increased starting salaries

for teachers from \$32,000 to \$36,000 with a pathway for young teachers to reach \$40,000 within four years. Teachers are rewarded with a \$1,000 raise each year if they are rated as “effective or distinguished” in the rating system.<sup>15</sup>

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Superintendents have also set up plans to reward teachers who pursue certain teacher development training. Sun Prairie School District, for example, created a system in which teachers receive bonuses for taking a number of hours of professional development training. At Milton, if a teacher takes more professional development training, the teacher earns more money. For example, 12 professional credits in a year can result in a \$2,000 raise.

Other examples include of merit pay include:

→ Kaukauna School District utilized a \$1.5 million surplus resulting from Act 10 to institute a merit pay system for teachers.<sup>16</sup>

→ Beloit Turner School District created bonuses for teachers if students hit certain thresholds on the WKCE exams and AP testing.<sup>17</sup>

→ Monona Grove School District instituted a new payment system that emphasizes

“increased responsibility, leadership, ‘stretch assignments’ and other contributions to the district and school missions.”<sup>18</sup>

→ Wauwatosa School District has instituted a merit pay system based on a combination of evaluations and service that can see teachers earning more than \$80,000 per year in the highest categories.<sup>19</sup>

→ De Forest School District has implemented a merit pay system that is focused on rewarding teachers who implement current best practices in education in their classroom.<sup>20</sup>

→ At Appleton School District, teacher pay increases are now tied to participation in professional development courses and continuing to receive satisfactory evaluations.<sup>21</sup>

It is unclear, to date, which teacher compensation plan is the best for our children. Or which attracts and retains better teachers.

Nonetheless, it is worth appreciating how, for many districts, Act 10 has thrown out the old, union created “seniority” system in favor of pay for performance.

### III. FLEXIBILITY FOR HIRING, FIRING, AND MANAGEMENT

Before 2011, the rigid collective bargaining agreements (CBAs) made it incredibly hard for superintendents to run their schools how they wanted to, i.e. what teachers to hire or fire, what courses should be offered to students, size of classrooms, length of the school day, etc. The union collective bargaining agreements also ensured that those teachers with seniority were protected, both with job stability and teaching assignments. In a much cited example of this, a first-year Milwaukee Public Schools teacher was laid off despite winning an award for her



teaching performance. All because, as Governor Walker explained, “Her union contract said the last hired was the first fired; the last in was the first out.”<sup>22</sup>

And then Act 10 happened.

Superintendents could now manage their schools – free of union restrictions. In 2011, Oconomowoc School District faced a budget shortfall of almost \$500,000.<sup>23</sup> In order to bridge this gap, the district reduced staff by cutting 15 teaching positions by qualification – and not seniority. In order to make up for the lost staff, the district offered the remaining teachers a \$14,000 stipend to teach a fourth class. Such a drastic change would have been impossible before Act 10.

In addition:

→ West Bend School District raised the teacher retirement age instead of cutting classes and revamped its healthcare plan.<sup>24</sup>

→ Teachers at the School District of Brown Deer were required to teach one extra class period.<sup>25</sup>

Superintendents could also hire teachers according to specific needs in the classroom.

Menasha Public Schools, who were hurt by a loss of six bilingual employees, offered a stipend of \$1,500 to try to hire teachers who are bilingual. In addition, the District will set aside \$12,000 for existing staff to get bilingual education certifications.<sup>26</sup> Oregon School District has also put in place specific systems that set different pay scales for high-demand teachers.<sup>27</sup>

Such incentives were a boon to certain teachers whose skill is in demand. For example, the Wisconsin State Journal explained how Brent

Siler was one of very few teachers in Wisconsin certified to teach in a broad-spectrum of STEM classes.<sup>28</sup> Because of the rarity of his certifications, he said that he was fielding calls “about once a week” with job opportunities.<sup>29</sup>

The Kettle-Moraine School District implemented a Strategic Compensation Program that includes additional compensation for teachers who take on additional responsibilities.<sup>30</sup>

Carrying the title of “lead educators” or “directors of learning,” these positions also require additional contract days and the individuals have responsibility for long-term curriculum planning and professional development of staff in their subject area as well as investigating and leading innovations in the field of education. Directors of Learning have supervision and evaluation responsibilities in addition to their teaching assignment. Kettle-Moraine Superintendent Dr. Pat Deklotz says that this system has been popular with teachers, and that “teachers aspire to hold these positions.”<sup>31</sup>

#### IV. GREATER COLLABORATION WITH TEACHERS

Prior to Act 10, the unions often inserted itself as the “middle man” between the teacher and the superintendent. Teachers who disagreed with union positions were left without a voice, and issues that were not a priority for the union were often neglected.

Many feared that the weakened state of public unions, due to Act 10, would allow superintendents to abuse their power and exploit teachers.<sup>32</sup>

Said Kim Anderson, director of government relations for the National Educators Association, said Act 10,

*“We view the events in Wisconsin as*



*one of the worst attacks on workers' rights and their voices in the workplace that we've ever seen.*<sup>33</sup>

While Act 10, at least for the short-term, will continue to be a contentious issue, there is some evidence that suggest superintendents have actually used Act 10 to improve the working relationship between teachers and the school board.

At least, that's how David Krier, School Board Member of Cedarburg School District sees it:

*"Teachers are visibly more responsive to instruction from the administration without collective bargaining, probably because they are more accountable to their schools directly. They are now extremely motivated to improve themselves, their teaching methods, techniques, skills. Teacher responsiveness to instruction and feedback has greatly improved."*<sup>34</sup>

Increased innovation and experimentation in classroom is another result of taking out the "middle man" of unions and allowing teachers and administrators to collaborate directly. Teachers are now free to go right to the principal for permission to try something new and see how it works.

At Cedarburg School District, the school realized their students could use more time with math instruction and therefore doubled the amount of time dedicated to math and hired new math teachers to remedy this.<sup>35</sup>

Another example is Cedarburg's "Reading Collaboration Initiative" where teachers volunteered themselves to travel to Ohio State University for special training in teaching students to read.<sup>36</sup> The results have been tremendous and have greatly enhanced student achieve-

ment, while also allowing teacher the opportunity to gain this new certification, furthering their professional development.

In another district that exemplifies an improved teacher-district relationship, the School District of Waukesha has set up a teacher advisory board in the years since Act 10.<sup>37</sup> This board, with members selected from various schools in the district, meets once a month to discuss the concerns that teachers have. This board has earned praise from teachers who see the board as a more direct path to effect change.<sup>38</sup> Other districts have strived to compromise with teachers in the area of compensation, as well as on restructuring the calendar and allocations of sick days.<sup>39</sup>

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Under Act 10, teachers can work together and make suggestions to their administration about new initiatives for their school and their classroom. In many districts, as has been shown, this has had the effect of enabling schools to more effectively meet specific needs while also allowing teacher and administrator relations to flourish.

For teachers with viewpoints that might have been at odds with the union, this direct line of communication is even more critical.

As Michelle Uetz, a teacher at Prescott School District notes:

*“Previously, I did not feel that my individual concerns and needs were important to the union. If I had a concern about something the union didn’t care about, I felt they wouldn’t make my issue a priority and was concerned that it would get lost in the bureaucracy.*

*Now that the path is open for teachers to directly contact administrators, and visa versa, there has been a dramatic increase in teacher input at my school. It is important to teachers that we feel heard, and since Act 10, my district more frequently asks for input regarding changes we would like to see in our contracts. It’s a more collaborative environment without union politics involved in each detail.”<sup>40</sup>*

Other stories:

→ In New Berlin School District, school employees were actively consulted in the process of handbook development, on topics ranging from the dress code to vacation time.<sup>41</sup>

→ Glenn Shilling, Superintendent of Lakeside-Hartland School District said,

*“After Act 10, our school board wanted to ensure that we have a close relationship with our teachers and staff. We created a process where teachers would have input on decisions that affect their job responsibilities and functions. A Design Team was created for teachers to have open discussions about wages, insurance, and other benefits. In the past, you could only discuss items that were considered contractual bargaining matters with a designated bargaining group. We feel that since Act 10 we have been able to inform and discuss*

*more district issues with a wider group teachers and staff.”<sup>42</sup>*

## V. CONCLUSION

We caution our readers against making over generalizations about our findings. We simply seek to tell the untold story of how superintendents are using Act 10 to reform their schools.

To be sure, some district leaders were able to convince the public sector unions to agree to changes to CBAs that would innovate the classroom. Yet, Act 10 gives the freedom and flexibility to all superintendents and school boards to manage their classrooms how they see fit. We shared with you many of those stories.

The next step is a deeper economic analysis of the non-fiscal impact of Act 10 on school districts, teachers, and students, which we will address in an upcoming study.

## Endnotes

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28. Id.
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32. Of course, some may have. And, in a competitive market for teachers and students, they should be punished
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