



ESSAY

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THE LOW COST OF LABOR REFORM

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EXECUTIVE SUMMARY

In Missouri, once a union becomes the “exclusive representative”¹ for a group of public employees, that union remains in power indefinitely. Another election will not be scheduled unless employees organize a petition and gather enough signatures for a decertification election.² Unions sometimes punish employees for attempting to decertify the union, in some cases successfully suing employees for thousands of dollars.³

One possible solution for employees who are unhappy with their representation would be requiring government unions to periodically run for re-election.⁴ A regular secret-

ballot election sounds like a good check on the abuses that can occur when a representative body is not accountable to its constituents. But aren't elections expensive?

In this study we show that cost-neutral⁵ elections are possible. We examine Wisconsin's low-cost, cost-neutral union elections; analyze the fiscal notes associated with union election proposals in Missouri; and look at how union election proposals could be improved in order to eliminate their fiscal impact on public bodies.

This study covers only the monetary cost of these elections. It is not intended to weigh the other costs and benefits of union elections.

ADVANCING LIBERTY WITH RESPONSIBILITY
BY PROMOTING MARKET SOLUTIONS
FOR MISSOURI PUBLIC POLICY

Once a workplace elects to have a union represent its interests in negotiations with management, no further elections are scheduled, no term limits are imposed, and the union stays in power indefinitely.

We find that legislators who want to eliminate the cost of a union election bill should include language that:

- Requires unions to pay for elections;
- Encourages the State Board of Mediation (“Board”) to contract out for election services; and
- Allows for alternative methods to traditional paper ballots, such as telephone- or internet-based voting.

By following these recommendations, Missouri can provide regular, low-cost, union elections to public employees without unduly burdening unions or forcing taxpayers to pay.

UNION ELECTIONS

For most public employees, unionization is a one-way trip. Once a workplace elects to have a union represent its interests in negotiations with management, no further elections are scheduled, no term limits are imposed, and the union stays in power indefinitely. Workers are usually stuck with the results of that original election, even if their representative fails to provide the services it promised. New employees will be forced to accept representation from a union they never had the chance to vote for.

Under the current system, the only way to remove a union from power is through a decertification election. In order to call a decertification election, employees must organize in opposition to the union and gather signatures from 30% of

employees represented by the union. The opposition must then file this petition with the Board. If the Board determines the signatures to be valid, it will hold an election to remove the union from power.⁶

The decertification process does not protect the identities of employees who sign a decertification petition. Moreover, some unions have made it a violation of their constitution for their members to seek to decertify the union. This means a union can sue an employee who attempts to decertify the union, sometimes fining members thousands of dollars for trying to replace their union with a different one.⁷

Regular union elections would give public employees the right to vote for a union for a fixed term. When that term ended, the union could choose to run for re-election. Other unions might also offer their services and run against the incumbent union. Workers would have the choice of keeping their union, electing a new union, or foregoing a unionized workplace altogether.

Proponents of regular elections argue that competition among unions will breed innovation and accountability.⁸ At the very least, regular elections would help keep the actions of unions in line with the interests of workers.

Union elections have benefits, but what about their costs? Surely a change to the one-time election system will impose new costs on taxpayers or union members?

This study shows that by using new

technologies, contracting out for services, and charging a small filing fee to incumbent unions, our state can provide regular elections for its unionized employees at a low monetary cost to incumbent unions and at no monetary cost to taxpayers.

IN WISCONSIN, UNION ELECTIONS ARE COST-NEUTRAL

In 2011, Wisconsin passed a law that provided regular union elections for some public employees.⁹ While these elections constitute an additional service by the state government, the state agency that handles these services, the Wisconsin Employee Relations Commission (WERC), provides the elections using existing resources. WERC can do this for two reasons: (1) WERC contracts out for elections with a firm that can provide inexpensive elections using telephone voting, and (2) WERC charges unions a small filing fee to cover the cost of contracting out.¹⁰

WERC contracts out with a private company, the American Arbitration Association (AAA), to provide union elections. AAA charges WERC a fee for each election it provides. The fee varies depending on the size of the election and comes to about \$1.50 per voter.¹¹

AAA allows employees to vote over the course of several days, during which employees may vote by telephone.¹² Voting by electronic means increases the convenience and efficiency of elections and further lowers monetary cost.¹³

WERC also charges each union

seeking re-election a small fee to cover the cost of contracting with AAA. Because AAA's fees vary depending on the size of the election, WERC charges fees to unions on a sliding scale depending on their size. A smaller union representing only a couple dozen employees would pay significantly less to stand for re-election than a large union representing hundreds of employees.¹⁴

With AAA providing a low-cost election service, WERC can cover the costs of the election entirely with the filing fee paid by each incumbent union. This means that the elections impose no new monetary cost on Wisconsin taxpayers.

FISCAL NOTES FOR UNION ELECTION PROPOSALS IN MISSOURI

Missouri has also had several union election proposals. We looked at the fiscal notes¹⁵ of three 2015 bills that would establish union elections: SB 126, HB 46, and SB 549. In the fiscal notes for each of these bills, the Department of Labor and Industrial Relations (DOLIR) estimated that providing these elections would impose new costs on the state.

SB 126 and HB 46

SB 126 and HB 46 would have put a measure before the voters that, if passed, would have required the Board to conduct elections for unions certified by the Board every two years.¹⁶ SB 126 and HB 46 were substantially similar measures with nearly identical fiscal notes. For this reason we analyze them together.

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DOLIR, which houses the Board, estimated that the measures would result in 300 additional elections each year. With only two employees on staff, DOLIR estimated that the Board would have to hire, at a minimum, four additional employees to handle the workload.¹⁷

With total compensation for the additional employees, travel and lodging expenses incurred daily to send these employees to elections held across the state, and new equipment to accommodate the increased number of elections, officials from DOLIR estimated that the measures would cost the state \$289,455 in fiscal year 2017 and \$407,509 in fiscal year 2018.¹⁸

SB 549

SB 549 would have required, among other things, that the Board conduct elections for all unions acting as exclusive representative for Missouri public employees.¹⁹ Like with SB 126 and HB 46, these elections would be held once every two years. However, unlike the other two bills, these elections would all be held at the same time during November of even numbered years.

With all elections scheduled for the same day, the fiscal note states that the Board would need to hire 760 temporary election officers to physically conduct elections.²⁰ By DOLIR's estimate, the contract for these temporary employees would cost over 1.2 million dollars in fiscal year 2017. DOLIR also estimated that SB 549 would require the Board to purchase new voting booths and ballot boxes (\$276,500), incur new

travel expenses (\$342,912 over three years), hire new personnel and pay fringe benefits (\$3,299,843 over three years), lease new office space (\$227,481 over three years), incur additional costs to the Information Technology Services Division (\$256,760 over three years), and pay for new equipment and other miscellaneous expenses (\$447,215 over three years). Altogether, the total cost estimated by DOLIR comes to \$1,867,396 in fiscal year 2016, \$2,688,107 in fiscal year 2017, and \$1,461,457 in fiscal year 2018.

There are other differences between SB 549 and the other two union election bills that increased the estimate for SB 549. By providing elections for all government unions, rather than just those certified by the Board, teacher and police unions would also be covered. According to DOLIR's estimate this could add 100 more elections to the proposal.²¹ SB 549 also contained some transparency reforms that DOLIR estimated would require additional staff.²² For these two reasons it is likely that DOLIR would have made a larger cost estimate for SB 549 regardless of the timing of its elections, but holding all elections at once rather than spreading them out over the course of a two-year period appears to be the biggest factor in the difference between the estimates.

LOW COST ELECTIONS ARE POSSIBLE

In interpreting the language of the 2014 union election bills, DOLIR made estimates of the monetary cost that elections would impose on the state that were much higher than

the actual cost of these elections when implemented in Wisconsin. If DOLIR had followed Wisconsin's lead, it could have reduced its estimate by millions, altogether eliminating these costs. Following are some suggestions on how to eliminate the cost to taxpayers and how to greatly reduce the cost imposed on public sector employees.

Filing Fees Eliminate the Monetary Cost to Taxpayers

If policymakers want union elections with a minimal impact on public funds, they should require unions to pay a filing fee to cover the cost of running for re-election. In Wisconsin, this fee was charged on a sliding scale so that smaller unions were not forced to subsidize the relatively more expensive elections of larger unions.²³ Running for re-election should also be optional. This way a union that does not want to pay the fee can simply allow its exclusive representation privilege to expire and resume representing employees on a members-only basis.

Requiring government unions to pay for elections is a fair and smart way to save money. Collective bargaining is a benefit to public employees, not to taxpayers. It's only fair that public employees, and not taxpayers, pay for the costs associated with collective bargaining.

Contracting Out Minimizes the Monetary Cost to Unions

In order to further reduce costs, the state could contract with a private company that specializes in providing elections. By contracting out for

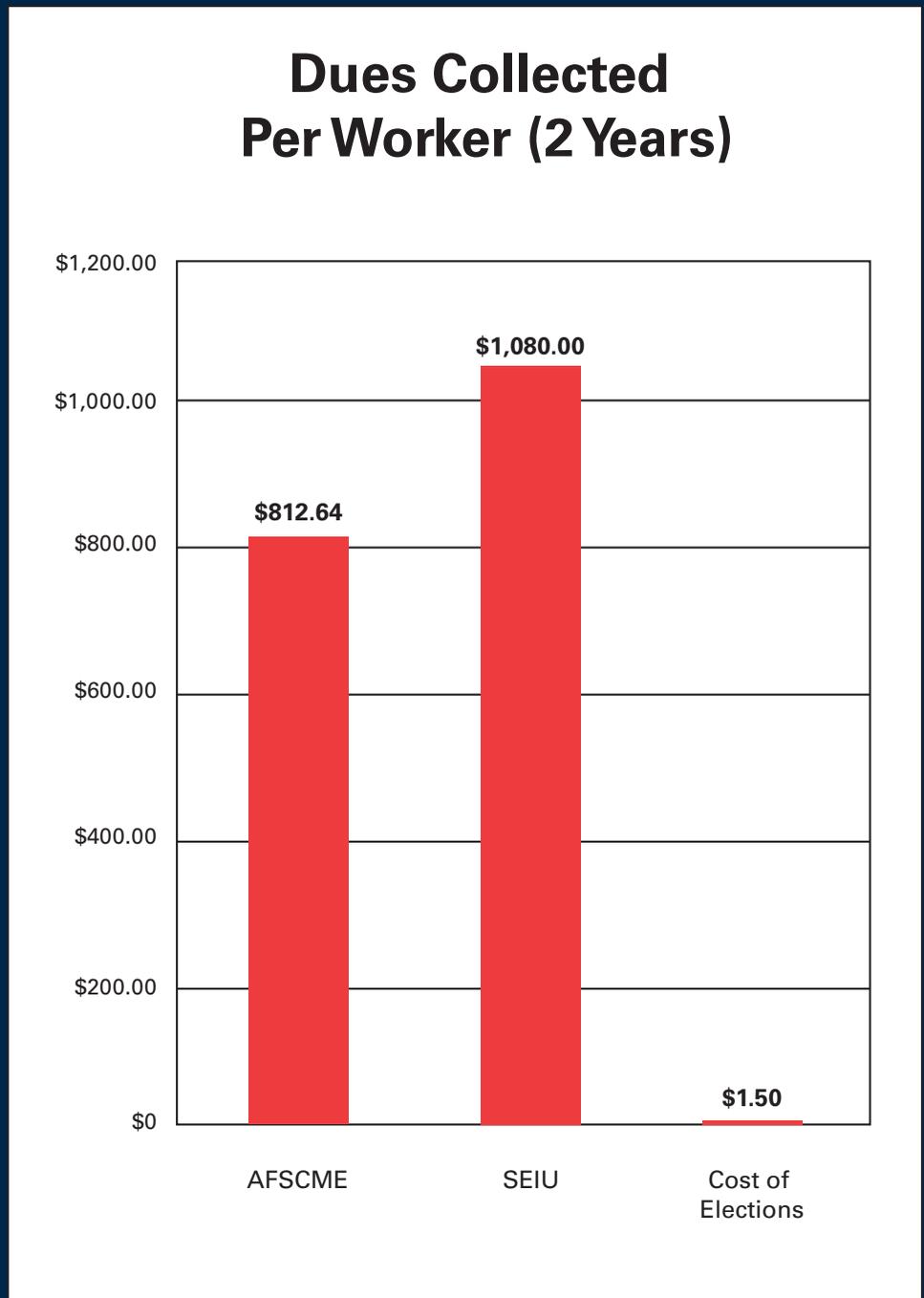
elections, the Board will not need to hire additional staff, pay for increased travel expenses, or purchase new voting equipment. The savings allow the state to charge a much lower filing fee to unions, saving public employees money.

Wisconsin contracted with the American Arbitration Association (AAA) to provide union elections for its public employees for about \$1.50 per voter per election,²⁴ but there are several other options. For example, a service called "electionbuddy" by Event IQ, Inc., conducts elections for Harvard and Yale Universities and thousands of other companies internationally for approximately 9 cents per voter.²⁵ \$0.09 to \$1.50 is a wide range, but even at the top end of that range, elections are not very costly. For comparison purposes, consider the dues charged to state employees by some of the major government unions. AFSCME charges members \$16.93 per pay period, or \$406.32 per year.²⁶ SEIU charges patient care professional employees \$22.50 per pay period, or \$540 per year.²⁷

Even if the state contracts with a more expensive alternative dispute resolution firm, rather than a relatively less costly corporate election firm, and ends up charging each union around \$1.50 per voter, with a biennial election that's less than two dollars out of the \$812.64 AFSCME collects per person during that period or the \$1,080.00 SEIU collects (see Figure 1).²⁸

Another benefit of contracting out is flexibility. If public employee unionization increases or decreases

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Figure 1

The above chart compares the dues collected per worker for two major public sector unions with the cost of union elections per worker over the same time period.

SOURCE: Author's Calculations. See endnote 28.

dramatically, it's much easier to simply contract for more or fewer election services than to readjust the size of the state bureaucracy. Relying on contracts rather than in-house staff will help keep DOLIR nimble.

Contracting out for election services also allows the state to rely on the institutional knowledge of specialists. A private company that specializes in providing elections to corporate and government clients has the capacity and know-how to provide a convenient and secure election service. Moreover, if a contractor invests in an election delivery service that does not work out, that company bears the costs. If DOLIR were to increase its election capacity using an in-house service that didn't work out, the public would bear these costs.

Finally, contracting out allows the Board to hold all elections at the same time without ballooning costs. Holding elections at the same time, especially if they're held at the same time as November Congressional elections, may help increase voter turnout. People are already accustomed to voting at this time, and by setting a voting period that's uniform and unchanging, lawmakers can ensure that voters have the best opportunity to participate in these elections.

SB 549 contemplated a single date for all union elections, which caused DOLIR to dramatically increase its estimate of SB 549's cost. DOLIR estimated that the Board would have to hire 760 temporary employees to handle these simultaneous elections, pay to transport these employees to locations across the state, and

purchase new voting booths and ballot boxes.²⁹

However, if DOLIR instead contracted out for the service, holding simultaneous elections would not have been a problem. A contractor that uses telephone- or internet-based voting to handle all elections at once can take on hundreds of simultaneous elections without greatly increasing costs. An electronic voting system can be handled from a central location so temporary employees and travel expenses are unnecessary.

Using Technology to Provide Superior Service

When the Board contracts out for election services, it should consider bids that use technology to provide convenient elections at a lower cost. The American Arbitration Association (AAA), for example, offers elections where voting can be done using the internet or a telephone.

With traditional voting, personnel costs can be high. Unless volunteers are available, paid workers need to be on location working polls. Telephone- and internet-based voting can be less costly because election personnel need not travel to the location of the election. These sorts of elections require only employees to run the computer system. The rest is automated.

Telephone and internet voting allow the Board to provide more convenient elections. When votes can be cast through a dial-in telephone system or through a web site, people can vote at their convenience from their home or workplace.

By contracting out for elections, the State Board of Mediation will not need to hire additional staff, pay for increased travel expenses, or purchase new voting equipment. The savings allow the state to charge a much lower filing fee to unions, saving public employees money.

By carefully crafting the law to encourage contracting out for polling services, and by requiring the unions to pay small fees for these elections, Missourians can enjoy greater union accountability without increased monetary cost.

Telephone and internet voting also allow polls to remain open longer without significantly increasing costs. Wisconsin was able to keep its polls open for days, allowing employees to vote any time of day for much of the month, thus increasing voter turnout.

Telephone and internet voting can be made more secure than traditional ballot elections. Internet voting can be encrypted. Election buddy uses 256-bit encryption, the same encryption many major banks use.³⁰

There is a risk that in the absence of traditional elections, voters will be pressured into attending “voting parties” where interested parties may monitor their votes. If this is a serious worry, legislation could include language that nullifies the results of an election if there has been any evidence of fraud or coercion.

CONCLUSION

Lawmakers should carefully consider the costs and benefits of union elections before enacting reforms. However, monetary cost should not be treated as a serious obstacle to union elections. By carefully crafting the law to encourage contracting out for polling services, and by requiring the unions to pay small fees for these elections, Missourians can enjoy greater union accountability without increased monetary cost.

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NOTES

¹ Unions usually seek to represent employees as an “exclusive representative.” An exclusive representative is a union to which the government or the employer awards the privilege of being the only representative for a given class of employees. An exclusive representative represents each employee of the class, whether or not each employee is a union member. Where an exclusive representative represents employees, employees may not represent themselves.

² 8 CSR 40-2.040

³ For example, in *IAFF v. Moon*, a government union sued eleven EMS workers for organizing a rival union. The union successfully imposed a penalty of \$8,820.48 on each worker. The courts enforced this penalty on the grounds that the EMS workers were advocating and encouraging union members to decertify the union in violation of the union’s charter.

⁴ See, for example, Estreicher, *Deregulating Union Democracy* (2000); Wisconsin’s Act 10; and The Employee Rights Act.

⁵ For the purposes of this paper, “cost-neutral” means that after all parts of the program are implemented the net effect on the state budget is zero or negligible.

⁶ 8 CSR 40-2.040.

⁷ See *IAFF v. Moon*.

⁸ Estreicher (2000).

⁹ Act 10 (2011).

¹⁰ ERC 70, 71, 80.

¹¹ Interview with Peter Davis, General Legal Counsel for WERC, June 2015.

¹² Ibid.

¹³ Electronic voting can raise the issue of whether the right people are voting. The worry is that if people are voting remotely, an unauthorized party might vote on behalf of a person who's authorized to vote. Voter fraud is a possible scenario with traditional elections as well. One possible anti-fraud measure is to give each voter a secure ID number that they must use to access the voting system.

¹⁴ Interview with Peter Davis, General Legal Counsel for WERC, June 2015.

¹⁵ A fiscal note is a document that estimates effect a bill will have on the state budget. Fiscal notes are prepared by the Legislature, using estimates made by state agencies.

¹⁶ Senate Bill 126 (2014); House Bill 46 (2014).

¹⁷ Fiscal Notes for SB 126; Fiscal note for HB 46.

¹⁸ Ibid.

¹⁹ Senate Bill 549 (2014).

²⁰ Fiscal Note for SB 549.

²¹ Ibid.

²² Ibid.

²³ Interview with Peter Davis, General Legal Counsel for WERC, June 2015.

²⁴ Interview with Kenneth Egger, National Vice President of Elections at AAA, August 2015.

²⁵ "Electionbuddy.com pricing and signup" last accessed 8/12/15.
Electionbuddy.com

²⁶ Email from Guy Krause, Office of Administration, Division of Personnel, August 17, 2015.

²⁷ Ibid.

²⁸ A rough calculation using Bureau

of Labor Statistics data shows that the total monetary cost to implement biennial union elections for all union employees in Missouri, both public sector and private sector, would be less than half a million dollars. Consider that there were 2.8 million nonfarm employees in Missouri in 2014 with 11.1% in unions. At \$1.50 per voter, the 310.8 thousand union employees would cost \$466.2 thousand dollars every two years- or \$233,100 each year. Compare this cost to the fiscal note for SB 549 in which the annual cost of union elections was in the millions and the elections only covered public sector unions.

²⁹ Fiscal Note for SB 549

³⁰ Electionbuddy.com

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