

Showdown in Madison

A chaotic month-long stand-off over a collective bargaining bill may have changed Wisconsin politics for good.

BY STEVEN WALTERS

The four-week firestorm in and around Wisconsin's Capitol earlier this year will reshape the state's politics for years to come.

The debate over first-term Republican Governor Scott Walker's call to stop just short of eliminating collective bargaining for most public employees divided Wisconsin, prompted a walkout by all 14 Senate Democrats and sparked recall-election showdowns that will measure the political clout of unions.

From mid-February through mid-March, the Capitol in Madison was swarmed by tens of thousands of chanting, singing, shouting, sign-carrying protesters. Some of them slept in the Capitol for days, turning a first-floor hallway into a food pantry. Handmade signs were taped to miles of marble.

More than 500 police officers, on loan from the largest and smallest communities, worked 18-hour shifts. Lawmakers included a \$10 million line item in the fiscal year 2012 budget for Capitol security. When one lawmaker refused to identify himself and go through a metal detector, an officer pushed him to the ground. State troopers were sent to the homes of Democratic senators, trying to catch any who returned from their self-imposed exile in Illinois.

About 90 threats against lawmakers and the governor were serious enough to investigate.

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PHOTO BY ELOISA CALLENDER

ALL EYES ON THE BADGER STATE

The whole world watched. Reporters from Germany, France, Italy, Canada and Mexico joined American news crews.

By March 10, the drama was at a climax. That day, two Assembly members—Representatives Richard Spanbauer, a Republican, and David Cullen, a Democrat—had to crawl through a first-floor Capitol window just to go to work.

Spanbauer and Cullen climbed into a Democratic senator's office because police had ordered a lockdown of the Capitol—"nobody in, nobody out"—while they dealt with dozens of protesters who had camped overnight in the vestibule outside the Assembly chamber. The demonstrators were finally dragged or escorted from the area.

They were the remnant of thousands who took over the first three floors of the Capitol the night of March 9, forcing police to retreat and protect the Capitol's two top floors.

Alerted by social media—"OMG. Meet me @ the Capitol in 20 minutes!!!"—protesters were incensed that Republican senators had

"We had just enough members to be able to deny a fiscal quorum."

—MARK MILLER,
WISCONSIN SENATE MINORITY LEADER

quickly taken up, passed and sent to the Assembly the historic change in collective bargaining

laws that Walker had announced he wanted one month earlier. All the Senate Democrats were still holding out in Illinois in an attempt to kill the bill.

The original plan called for Senate Republicans to pass the governor's collective-bargaining bill on Feb. 17, less than a week after he unveiled it. But when all 14 Democrats bolted to Illinois that day, the Assembly had to go first.

After a record 62 hours of debate, with thousands of protesters massing in the Capitol rotunda daily, the Assembly passed it, 51-17, on Feb. 25. The 1:05 a.m. roll call caught so many



exhausted, sleepwalking lawmakers by surprise that 28 of them never got a chance to even vote, since the electronic voting machine was kept open for only 17 seconds. Republicans left the chamber in a single-file line, as Democrats shouted “shame” and other insults.

The waiting game in the Senate then started: When would the 14 Senate Democrats return for a showdown vote they knew they would lose? Walker aides talked about possible compromises at a Kenosha McDonald’s and other places in both states.

No deal could be struck, however. So, on March 9, Senate Republicans stripped Walker’s bill of all non-spending issues, which eliminated the requirement that 20 senators had to be present to vote on it, and quickly passed it, 17-1.

That set up the Assembly’s second vote for the collective bargaining changes—a 53-42 vote for it on March 10. Walker signed it in private the next morning, then held a ceremonial signing hours later in front of about 100 reporters.

Although a Dane County judge blocked the bill from becoming law on the grounds that it

violated the state’s open meeting law, a divided Wisconsin Supreme Court ruled on June 14 that the bill had been legally passed—a ruling that meant the Legislature didn’t have to pass it a second time.

CHAOS AND HISTORY

On Feb. 11, when Walker announced details of his “budget-repair bill,” neither he nor any of the four partisan leaders of the Capitol knew how much history it would make, or how much chaos it would cause.

Walker wanted to reverse decades of Wisconsin labor laws, laws the governor and the top two Republican leaders—Senate Majority Leader Scott Fitzgerald and his younger brother, Assembly Speaker Jeff Fitzgerald—said had given public workers generous salaries and fringe benefits that cost taxpayers billions of dollars.

Under the new law, collective bargaining by public employees is limited to cost-of-living raises tied to inflation. To minimize the political push-back and avoid any illegal strikes that could cripple emergency services, the governor

exempted local firefighters and police officers and State Patrol troopers from the changes.

The law also requires workers to vote annually to recertify public employee unions, makes payment of union dues optional, and requires all public employees to contribute more toward their pensions and health care. Unions had agreed to the higher fringe-benefit contributions—which will cost state workers about \$300 million over the next two years—but refused to accept the other changes, saying they end decades of workers’ protections.

The new law could cripple public employee unions financially. In one year, \$11.2 million in union dues was withheld from the paychecks of executive-branch employees of state government and \$2.6 million in union dues were withheld from the paychecks of University of Wisconsin-Madison workers.

The governor defended his changes this way: Local governments need these new “tools” to offset cuts he was proposing in state aid for schools, local governments, and public colleges and universities. Walker said the cuts



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were needed to fix a two-year, \$3.6-billion budget deficit—a deficit that he widened by pushing through the Legislature \$81 million in tax breaks for businesses in January.

The governor’s plan to take away bargaining powers public employees had for decades touched historical, emotional and political nerves. In 1959, Wisconsin was the first state to let public employees join unions. In addition, Madison is the birthplace of the giant American Federation of State, County and Municipal Employees.

Walker and Republican legislators thought they had picked a fight with only a few public employee unions.

They were wrong.

A CIRCUS OF SORTS

Uniformed firefighters, led by a bagpiper, marched through the Capitol in an emotional show of solidarity. Police unions joined in, too.

Soon, all major private-sector unions, their leaders and the Rev. Jesse Jackson were in Madison, turning the capital city into an international battleground in the fight over workers’ rights.

It forced legislative leaders to make career-changing choices.

Senate Minority Leader Mark Miller, for example, convinced all Senate Democrats—including the pregnant Julie Lassa—to flee to Illinois. That left the 19 Republicans frustrated, but unable to take any major action.

The Democrats’ flight started with an innocent call to the Senate chief clerk: Since the state

Constitution requires a three-fifths quorum in both houses of the Legislature to pass spending bills, what’s that requirement in the 33-member Senate—19 or 20?

The answer: At least 20 senators must be present to pass a spending bill. That meant every Republican and at least one Democrat.



SENATE MINORITY LEADER
MARK MILLER
WISCONSIN

Miller bristled at the GOP push to “railroad through” Walker’s changes only days after the governor introduced them. Miller remembered that Texas legislators had once fled that state to block passage of a bill, so he convinced the other 13 Democrats to pack up and meet in Rockford that afternoon. Democrats knew state troopers, who may have been able to escort them back to Madison if they were caught within the state’s borders, had no jurisdiction in other states.

“We had just enough members to be able to deny a fiscal quorum,” Miller says. That way, they could lengthen the time “the bill was exposed to public scrutiny.”

Miller says Democrats made this “once in a generation” decision to flee because “everybody knew what was at stake: We were standing up for the long-established ability of workers to bargain collectively. ... This was an assault on all workers.”

Walker’s goal is to destroy public-employee unions so they can’t help elect Democrats, Miller says. “It’s a political agenda.”

The Democrats ended up staying in Illinois more than three weeks, moving often to avoid Tea Party activists who tracked them and followed them to interviews with TV crews. They didn’t return to the Capitol until March 12—when they were cheered as heroes.

STANDOFF

Senate Majority Leader Fitzgerald was incredulous that all 14 Senate Democrats had fled Wisconsin.

“I still wasn’t taking it seriously,” he says. “I thought it was a gimmick, a stunt. I thought they’d be back in a day or two.”

Two weeks later, however, another Senate Republican said to him: “Fitz, I don’t think they’re coming back.”

They weren’t. Democrats said that since neither Walker nor Senate Republicans would change the bill, despite the unions’ willingness to pay more for health care and pensions, they had no reason to return. Democrats also had no

end-game strategy, which bothered two of their veterans, Tim Cullen and Bob Jauch.

Senate Republicans tried to force the Democrats back to the Capitol. They got no help from rules or laws, Scott Fitzgerald recalls. "We were winging it."

Republicans halted any direct deposit of Democrats' salaries, trying to force them back to pick up their paychecks from Fitzgerald's office. One Democratic senator signed a power-of-attorney form, which meant an aide could pick up his boss's paycheck.

Republican senators passed resolutions holding the 14 Democrats in "contempt" and fining them \$100 a day. No fines were ever paid, however.

Republicans also told any police officer who found a Senate Democrat in the state to escort him or her back to the Capitol.

"You can't really remove somebody from office [for] refusing to do their job," Scott Fitzgerald says.

Late in the afternoon of March 9, Republican leaders had had enough. The Fitzgerald brothers decided to strip spending elements from the bill,

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WISCONSIN SENATE MAJORITY LEADER

call a conference committee on the collective bargaining changes that were left, and pass it through the Senate in a five-minute session that started shortly after 6 p.m.

The 17-1 vote sent the revised bill back to the Assembly. Police had to escort Republican senators, besieged by chanting, shouting protesters, from the Capitol.

Within minutes, thousands of protesters stormed the Capitol.



SENATE MAJORITY LEADER
SCOTT FITZGERALD
WISCONSIN

"There's a real level of intimidation" that senators felt when protesters blocked them from using their offices for three weeks, Scott Fitzgerald says. If lawmakers can't "think freely, that changes the process," he adds. "That should never happen."

"I was nervous. I had the votes. But I was afraid [the weekend] could sway it the other way. It did the exact opposite."

—JEFF FITZGERALD,
WISCONSIN ASSEMBLY SPEAKER

As the protests built and Democrats refused to leave Illinois, it unified Senate Republicans, Fitzgerald says. "They were 'tightening' us. ... I don't regret any decisions we made."



HOUSE SPEAKER
JEFF FITZGERALD
WISCONSIN

THE ASSEMBLY WAS READY

When the bill first came to the Assembly in February, Speaker Jeff Fitzgerald was ready. After all, 25 of the 57 Assembly Republicans were first-term conservatives. They came to Madison to dismantle spending and programs built up during the eight-year term of former Democratic Governor Jim Doyle.

The 99-member Assembly was prepared to start debating Walker's bill when police called Speaker Fitzgerald. "We can no longer provide security for your members," the officers warned.

Fitzgerald had no choice but to send Assembly members home for the weekend, not knowing if angry voters back home would derail support for Walker's bill.

"I was nervous. I had the votes," Fitzgerald says. "But I was afraid [the weekend] could sway it the other way. It did the exact opposite."

He was even worried about how he would be treated at his son's Saturday basketball game, but was surprised at the number of neighbors who encouraged him.

When Assembly Republicans returned to the Capitol the next week, Fitzgerald says they were more unified than ever. "That silent majority is out there," he says.

The first-term speaker said his fellow Republicans sympathized with their leader. "The protesters bonded me with my caucus. It was very rewarding for me."

That bonding led to the initial 51-17 vote in February following the marathon debate. When the stripped down bill came back to the Assembly from the Senate, the debate on March 10 lasted only a little over three hours and passed by a 53-42 vote.

DEMOCRATS LEFT BEHIND

With Senate Democrats in Illinois, Assembly Minority Leader Peter Barca became the top Democrat in the Capitol. He had to keep his 38 Democrats unified, fight to reopen public access to the Capitol, hold press conferences and be in the center of daily—sometimes hourly—rallies.

Assembly Democrats had to "lead the fight," Barca says. "It was a lot of pressure."

"We felt, from day one, that we were on the right side of history."

—PETER BARCA,
WISCONSIN ASSEMBLY MINORITY LEADER

Barca had served in Congress during the national brouhaha over President Clinton's attempt to rework the nation's health-care system. But the tumult in Wisconsin's Capitol was the most jarring, emotional and explosive thing he had ever experienced, he says.

"The magnitude of the [unions'] solidarity was extremely impressive," Barca says. "It was remarkable."

Barca was surprised the governor, who had served in the Assembly for eight years, pushed such a controversial anti-union agenda only days after taking office. It awakened a "sleeping giant," the Assembly Democrat says.

Barca and Miller predict the collective bargaining firestorm will eventually lead to Democrats regaining control of the Legislature.

Control of the Senate could switch this summer if Democrats win three of nine recall elections that target six Republican senators. But three Democratic senators also face recall elections, although all nine targeted senators have filed court appeals challenging the decision to call recall elections. Union leaders have told their members to focus on winning enough of the recall elections to flip Senate control to Democrats.

"We felt, from day one," Barca says, "that we were on the right side of history."



ASSEMBLY MINORITY LEADER
PETER BARCA
WISCONSIN

SL ONLINE

Learn more about steps other states have taken to curb collective bargaining by public sector unions at www.ncsl.org/magazine.

WISCONSIN'S RECALL FREE-FOR-ALL

BY STEVE WALTERS

It took Wisconsin voters 148 years to recall a state legislator, and only two have ever been tossed from office that way.

Until this year.

Nine of Wisconsin's 33 state senators—six Republicans and three Democrats—could face recall elections this summer. Wisconsin's Government Accountability Board, which oversees elections, certified recall elections for all nine senators and set either July 12 or July 19 for those votes.

When—or if—all nine recall elections will be held will depend on several factors, including lawsuits filed by the targeted senators. Also, Republicans Party officials lined up members of their party to run as Democrats in the recalls, forcing primary elections that would delay final recall votes by one month.

Control of the Senate could be at stake, since Republicans started the year with only a 19-14 majority.

The six Republicans targeted for recall were a third of the yes votes for Republican Governor Scott Walker's plan to prohibit public employees—except for local firefighters, police officers and state troopers—from collectively bargaining for anything but pay raises tied to inflation. It also requires public employees to contribute more toward their pensions and health care.

Despite the chants, songs, cheers and jeers of thousands protesting against the bill, and police escorts for Republican lawmakers, Walker's plan passed the Republican-controlled Legislature. No Democrat voted for it, and all the Democratic senators had left the state in an effort to stymie passage of the bill.

A county judge temporarily blocked it from becoming law, but on June 14 a split Supreme Court ruled the bill was legally passed the first time. The four-justice majority was led by Justice David Prosser, a former Republican speaker of the Assembly.

Three Democratic senators who could be recalled this summer joined 11 other Democrats and fled to Illinois on Feb. 17 to block a Senate vote on Walker's controversial changes.

Even though all the Democratic senators returned to a hero's welcome from protesters at the Capitol on March 12, opponents who thought they had abandoned the job they were

elected to do circulated recall petitions.

Wisconsin allows a recall election only after an elected state official has been in office for a year if a specific number of voters back home, a number tied to turnout in a statewide election, petition for the recall. The nine senators targeted for recall elections this year were elected in 2008.

Three Assembly members are challenging their state senators: Democratic Representative Sandy Pasch wants the job of Republican Senator Alberta Darling. Democratic Representative Jennifer Shilling is running against Republican Senator Dan Kapanke. Democratic Representative Fred Clark is challenging Republican Senator Luther Olsen.

In another potential recall, Jessica King,

“Politics between elections have almost always been inside the doors of the state Capitol, rather than in voting booths.”

—CHARLES FRANKLIN,
UNIVERSITY OF WISCONSIN

an English teacher on the National Education Association's board of directors, is running against Republican Senator Sheila Harsdorf.

It's also the second time one Democrat, Senator Jim Holperin, has been targeted for recall. In 1990, as a member of the Assembly, he survived a recall election that resulted from a dispute over tribal spearfishing rights in northern Wisconsin.

Wisconsin is one of 11 states that do not list specific reasons state officials can be recalled. Senators who face voters this summer were targeted for their on-the-job votes or actions—not misconduct or criminal acts. Eight states list specific grounds that justify recall.

Legislative leaders in Wisconsin have talked about rewriting current law to prohibit recalls for on-the-job decisions, but they have not yet drafted or advanced that change.

If grounds for recall are narrowed, those leaders will be accused of pushing an “incumbent protection act,” says Charles Franklin, a University of Wisconsin political science pro-

TWO WHO GOT THE BOOT

Until this year, there had been only four attempts to recall Wisconsin legislators. An effort to recall a senator in 1932 failed. Representative Jim Holperin survived a 1990 vote on his ouster.

In 1996, Republican Senator George Petak was the first lawmaker in Wisconsin to be recalled. He had promised his Racine County constituents that he would vote against a local-option sales tax to help pay for a new Milwaukee Brewers baseball stadium. But, after a new stadium package failed twice, Petak switched his vote.

Petak's vote may have kept the Brewers in Wisconsin, but it cost him his Senate seat.

The second Wisconsin lawmaker to be recalled, Democratic Senator Gary George of Milwaukee, was charged in 2003 in a kickback scheme. He was convicted, served time in prison, and is now practicing law again in Milwaukee.

fessor and cofounder of the website pollster.com.

Governing-by-recall is “truly new” in Wisconsin, says Franklin, who predicted the trend will not last.

“Politics between elections have almost always been inside the doors of the state Capitol, rather than in voting booths,” Franklin says of Wisconsin's experience until this year. “Parties have had two years to play their hand before voters got to judge how well they had done. This is no longer the case in Wisconsin, where we now see elections can be refought in just a few months.”

“That is a huge change. It is also likely to be temporary,” Franklin says, noting it's unlikely voters will remain as engaged in the political process.

After this summer's elections, however, Wisconsin may not be done with recalls.

Walker's opponents are building a statewide database of names and addresses, part of an effort to obtain the 540,208 signatures needed to force a recall election early next year targeting the GOP governor.

SL ONLINE

Read more about the rules for recalling lawmakers at www.ncsl.org/magazine.

CAPITOL WORKERS: IN THEIR OWN WORDS



Workers in the Wisconsin Capitol had their lives turned upside down by the protests that started in February after Governor Scott Walker introduced legislation eliminating the collective bargaining rights of most public workers.

JOHN JAGLER

The protests in and around Wisconsin's Capitol came during John Jagler's first weeks on the job as spokesman for Wisconsin Assembly Speaker Jeff Fitzgerald. As a broadcast reporter for years at WTMJ Radio in Milwaukee, Jagler was no stranger to news and deadlines. But, even for a veteran journalist, the protests were unique.

"I've never seen anything like this before." That phrase was repeated to me over and over again during the budget-repair bill debate," Jagler says.

The calls from reporters and producers were ceaseless. "When I was able to catch an hour or two of sleep, I did so with my phone in my hand."

He takes issue with the description of the protests in the media as peaceful. "It was anything but peaceful. The noise in the Capitol was deafening. While Democrats wore orange shirts that showed support for the union protestors, we were targeted because we wore our suits and ties."

Simply walking around the building was difficult for staff. "It was nearly impossible for the speaker," Jagler says. "State troopers had to escort him to meetings. We were often escorted to our vehicles by law enforcement."

On the morning before the final vote on the collective bargaining bill, protestors had gotten into the Assembly ante-chamber. "State troopers had to drag several out of the way for me to get into the door," he says. "Once inside, a co-worker and I had to endure hours of pounding on our glass windows.

"Peaceful"? I think not."

JESSICA ARP

Jessica Arp is the Capitol and political reporter for WISC-TV in Madison, the city's top-rated news station. Arp, who grew up in rural Wisconsin and graduated from the University of Wisconsin-Madison, had never covered an assignment as challenging, demanding and prolonged as the Capitol protests.

"Each day was a flurry of instant deadlines, surprising legislative actions and rapidly changing information I had to get out to our viewers as quickly as possible," she says. "On top of everything, massive crowds had gathered in the building, mostly friendly and peaceful, but some confrontational on occasion. One woman even threatened to hit me as I tried to push through a blockade of people to enter the Senate."

Arp says it turned her assignment from "what some might see as a mundane job of explaining what goes on at the statehouse into an adrenaline-rushed, all-out chase to get the story to groups of people hungry for information."

JULIE LANDRIE

Julie Landrie is the senior aide to Democratic Senator Jon Erpenbach, one of the 14 Demo-

crats who fled to Illinois for three weeks to block a vote on the Republican governor's bill to dramatically limit collective bargaining by most public workers. She has worked in Wisconsin's Capitol for 14 years.

"Working across state lines with our boss was a challenge, but Jon is really plugged in to his phone 24/7 so we could do almost anything via phone, email, or text," she says. "I sent Jon's uncle his first text ever; he staffed Jon a lot in Chicago, which definitely helped."

Landrie appreciated the historic nature of what happened in Madison. "Emotionally, as a legislative staffer, the experience was like a riding a roller coaster. Several weeks at work were just a blur of media calls, drums, singing, bagpipes, chanting, lots of email, phones ringing, and many, many peanut butter sandwiches."

Seeing the emotions of those who protested at the Capitol also made an impression. "I think most memorable were just the raw feelings of the people who came here to protest; they were and still are afraid."

ANNE SAPPENFIELD

Anne Sappenfield is a veteran attorney for the Wisconsin Legislative Council, which provides nonpartisan advice to lawmakers and other Capitol leaders.

"When the protests began, we were at the beginning of session, which, for a full-time legislature, is usually a time to get to know our chairs and new legislators and begin the work of the standing committees," Sappenfield says. "Instead, most normal work of the legislature was put on hold."

But Sappenfield says what most surprised her was that her office was asked questions that had never been raised before. "Wisconsin had no recent experience with compelling attendance of members of the legislature. What is permitted in compelling a member's attendance is a question we could not answer with certainty," she says.

"As an employee of a legislative service agency, I want to help legislators accomplish their goals, so it feels like failure when I am not able to give a definitive answer, especially to questions that so directly affected the members and their day-to-day work."

ONLINE

Other Wisconsin workers talk about their experiences in the Capitol at www.ncsl.org/magazine.