

Ohio's 64-year-old war over public unions rekindled

By [William Hershey](#), Columbus Bureau

9:02 PM Saturday, February 26, 2011

COLUMBUS — The political stars aligned just right for Ohio Republicans in 1947 when the GOP-led state government decided to squash any collective bargaining efforts by public employees.

With Republican Thomas J. Herbert in the governor's office and overwhelming Republican majorities in the legislature — 32-4 in the Senate, 123-16 in the House — Ohio approved the Ferguson Act.

It banned public employee strikes, provided for dismissal of strikers and stipulated that any striker who was rehired would get no pay raise for a year and would be on probation for two years.

The Ferguson Act is a post-World War II bookend to current efforts by another Republican-led state government to again clamp down on public employee collective bargaining.

Senate Bill 5, sponsored by Sen. Shannon Jones, R-Clearcreek Twp., would undo much of what a Democratic-led state government did in 1983 with a public employee collective bargaining law considered one of the most pro-union in the nation.

The 1983 law, still basically in effect, gave public workers the right to bargain for wages, benefits and working conditions and, for all but safety forces, a right to strike. The law provided that their police and fire disagreements would be settled by binding arbitration.

While 1947, 1983 and 2011 are the main markers in the public employee collective bargaining saga in Ohio, there have been other significant developments.

Right-to-work initiative backfires

Gregory M. Saltzman, chairman of the economics and management department at Albion College in Michigan and a labor researcher at the University of Michigan, chronicled them in "Public Sector Bargaining Laws Really Matter: Evidence from Ohio and Illinois," a chapter in the book "When Public Sector Workers Organize."

The Ferguson Act was only one 1947 development that chilled public employee bargaining efforts.

In *Hagerman v. Dayton*, the Ohio Supreme Court ruled that local governments could not permit voluntary deduction of union dues from employees' paychecks and declared that municipal contracts with unions were an improper delegation of governmental authority.

Public employee unions tried to fight back, but had little success in the legislature.

Then came 1958 and a right-to-work initiative that backfired. Against the advice of Ohio Republican Chairman Ray Bliss and Republican U.S. Sen. John Bricker, GOP Gov. C. William O'Neill, backed by the Ohio Chamber of Commerce, put a proposal on the ballot to prohibit adoption of union

contracts that set union membership as a condition of employment.

The proposal was directed at private-sector unions, then a powerful force in Ohio. In Ohio, more than a third of the work force was represented by a union in 1958, compared to just 13.7 percent in 2010.

Voters overwhelmingly defeated the proposal, 63-37 percent and Democrats won control of both houses of the legislature and all statewide non-judicial offices, except secretary of state.

This fueled an effort to promote public employee collective bargaining. In 1959 legislation was passed that authorized dues checkoffs for public employees.

In the 1960s, according to Saltzman, another major development was frequent nonenforcement of anti-union provisions of state law.

Provisions of the Supreme Court ruling that declared public sector bargaining an improper delegation of authority were ignored and by 1968 most major Ohio cities — Akron, Cleveland, Columbus, Dayton, Toledo and Youngstown — had signed contracts with the American Federation of State, County and Municipal Employees (AFSCME).

Public employers were reluctant to use the Ferguson Act's severe penalties against public employee strikes.

A major breakthrough for teachers came in a 1975 Ohio Supreme Court decision, *Dayton Classroom Teachers v. Dayton Board of Education*.

The court ruled that school boards had the authority to bargain with their employees and that any contract would be enforceable in court.

Democrats continued legislative efforts, but were no match for Republican Gov. James A. Rhodes. Twice — in 1975 and 1977 — the legislature passed public sector collective bargaining bills, only to have Rhodes veto them. Rhodes' 1977 veto came shortly after what Saltzman called a "particularly bitter strike" by Dayton firefighters, during which some buildings burned to the ground.

Public union supporter points to labor peace

Term limits kept Rhodes off the 1982 ballot and for the first time since 1958 Democrats won control of both the House and Senate and the governor's office, with Richard F. Celeste.

Democratic Sen. Gene Branstool, a farmer from near Utica in a Republican-leaning district, sponsored a new collective bargaining bill.

"Just because you're a public worker doesn't mean you should have less rights," Branstool said last week.

Former Ohio Senate President Richard Finan, a Republican from the Cincinnati suburb of Evendale, was among those who voted against the 1983 law.

"I think the system was working OK," Finan, a former mayor, said.

Branstool said the law has led to labor peace.

According to the State Employment Relations Board, there were 183 public employee strikes from 1978 to 1980, with no data available for 1981-1983.

From 1984-2010, there have been 211 strikes, including none last year.

Republicans controlled the governor's office and both houses of the legislature for 12 years from 1995 to 2006 but did not try to throw out the 1983 law.

Finan, a University of Dayton graduate, said he didn't fear a public backlash — as occurred after the 1958 right-to-work initiative — but couldn't be sure exactly what would have been proposed and didn't know if there would have been enough votes to overturn the 1983 law.

Also, unlike new Republican Gov. John Kasich, who backs the current effort, the two previous Republican governors, George Voinovich and Bob Taft, maintained friendly, if not always warm, relations with public sector unions.

Republicans regained total control in last year's elections and there was no hesitancy to act quickly against the 1983 law.

Finan strongly backs the new effort and believes public opinion will support it.

“The opportunity is there for the General Assembly to change” the law, Finan said.

Branstool said there should be no going back to the pre-1983 system.

“If it didn't work before, I don't know why it would tend to work now,” he said.

Find this article at:

<http://www.daytondailynews.com/news/ohio-news/ohios-64-year-old-war-over-public-unions-rekindled-1092045.html>

 [Print this page](#)  [Close](#)