

BENEFITS OF  
BARGAINING:  
HOW PUBLIC WORKER  
NEGOTIATIONS IMPROVE  
OHIO COMMUNITIES

A REPORT FROM  
POLICY MATTERS OHIO

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## Executive Summary

On March 31, 2011, Governor Kasich signed Senate Bill 5, which made vast changes to Ohio's public employee collective bargaining law. The bill greatly reduces the collective bargaining rights of 350,000 Ohio public workers. The changes include: banning the right to strike, ending binding arbitration for safety forces, eliminating annual raises based on experience, and limiting bargaining to wages. The bill will sharply restrict the right to negotiate workplace conditions such as staffing levels, scheduling and hours. Defenders of collective bargaining collected 915,456 signatures to place an issue on the November 8 ballot that would prevent the bill from going into effect. A 'yes' vote on Issue 2 will allow the sweeping changes, a 'no' vote will keep in place the rules that have existed since 1983.

Public sector unions bargain for better compensation and working conditions, which can improve the economy and ease recruitment. But do they also bargain for provisions that more directly benefit the community? Through interviews, literature reviews, and examination of collective bargaining contracts, this report seeks to answer that question for four professions: public school teachers, police officers and firefighters, and publicly-employed nurses.

**Teachers:** Teachers' unions bargain to improve classroom conditions, benefitting teachers and students alike. Some of the issues teachers' unions negotiate that improve student outcomes are:

- **Class size:** Teachers' unions often bargain to maintain low class sizes, especially in K-3 classes. Studies have shown that small classes are especially helpful to younger students, low-income students and students from minority communities. Small classes enable more writing assignments, better student-teacher relationships, and safer, more stable classroom atmospheres. We found that teacher unions often bargain to shrink and maintain class sizes, while management sometimes seeks to save money by increasing class sizes.
- **Discipline plans:** Public employers and teachers' unions use collective bargaining to develop discipline plans for students in order to minimize classroom disruptions. Under Senate Bill 5, discipline plans can be made without teacher input, which could undermine teacher authority and increase disruption. We also found examples of proactive union steps to prevent discipline problems. The Cleveland Teachers' Union has negotiated to create In-School-Suspensions, to keep students off the streets and ensure discipline-challenged students get proper treatment.
- **Improving school quality:** Teacher unions fight for classes that improve curriculum. They have negotiated to ensure multiple choices of foreign language classes in high schools and to ensure music, art, and physical education classes in elementary schools. These classes also provide preparation periods for core-class teachers, which can improve their performance.
- **Improved Evaluations:** Ohio teacher unions have been especially proactive in creating teacher evaluation and training systems. The Toledo Federation of Teachers created the Peer-Assistance and Review (PAR) program in the 1980's, which pairs veteran teacher mentors with newly-hired or struggling teachers to provide guidance and evaluation. The PAR program is now in over 70 school districts around the country, including Toledo, Cleveland, Cincinnati, and Columbus, and has been praised as one of the best systems for improving new teacher quality.

- Our contract and literature review also found seniority in layoffs is not well understood. Seniority has traditionally been used to make decisions on layoffs within teacher certification areas, so that schools retain necessary areas of expertise within their teaching ranks. Even if SB-5 is repealed, this process has been amended by the recent budget bill, which allows seniority to be used as a tie-breaker only when choosing between teachers with comparable evaluations.

**Firefighters and Police:** Senate Bill 5 gets rid of binding arbitration as a way of resolving impasses in contract disputes for local safety forces. Ohio’s 1983 collective bargaining law gave these workers binding arbitration in exchange for taking away their right to strike. Historically, in negotiations that reach an impasse and require arbitration, arbitrators have sided with management about half of the time, and unions the other half. Only about 2 percent of all negotiations have gone to arbitration since 1983. With neither arbitration nor the right to strike, police officers and firefighters argue they have no leverage in negotiations, effectively ending their right to collectively bargain. The lack of arbitration, and the inability of police and firefighter unions to negotiate workplace conditions such as staffing levels, training programs and emergency protocols, could hurt public services. Some things that police and firefighters have negotiated for include:

- **Staffing levels:** Firefighter and police unions have bargained to maintain safe staffing levels with sufficient on-duty personnel for fast response times. SB-5 removes the right to bargain over the number of workers on duty and could lead to lower staffing that would affect emergency response times.
- **Training:** Firefighter and police unions both negotiate for allotment of hours towards training programs each year. These programs can range from firearm proficiency to medical emergency training. Continued training for police officers and firefighters ensures that their medical skills are up-to-date and that emergency protocols are well-practiced.
- **Equipment:** Senate Bill 5 allows for public safety personnel to collectively bargain only for equipment directly related to personal safety. However, what constitutes “personal safety equipment” remains unclear, and without arbitration unions have no leverage to encourage management to purchase high-quality, more expensive equipment.
- **Management-Employee Collaboration:** Through collective bargaining, police officers and firefighters have set up committees with management to address issues that arise between contract negotiations. These committees require management and employees to meet and solve problems flexibly and in a timely manner. If staffing levels become dangerously low, or equipment begins to fail, these committees can address the problem with input from safety personnel on the ground. Under SB-5, management would not be compelled to meet with employees over these issues and could make decisions unilaterally, without employee input.

**Nurses:** Nurses have used collective bargaining to maintain adequate nurse-patient ratios and scheduling that does not lead to overwork. Research has suggested that nurses should have input on staffing, scheduling, and hospital procedures. Senate Bill 5 would have the opposite effect.

- Staffing levels: Nurse unions bargain for minimum staffing levels at hospitals so that nurse patient ratios are reasonable. Patient outcomes and patient satisfaction are negatively affected by nurses who are charged with caring for too many patients at one time. Under SB-5, staffing levels would not be permissible topics for bargaining and nurses would have no power to raise staffing levels that become dangerously low.
- Scheduling: Since nurses work long hours and large amounts of overtime, the possibility of overwork is high. Research has shown that overwork leads to poorer patient outcomes and lower patient satisfaction. Long hours with less rest can result in errors in patient treatment. Unions negotiate for adequate rest between shifts and reasonable shift lengths. Senate Bill 5 would limit nurse input in hospital scheduling practices.

These public professions have important responsibilities in our communities – educating our children, keeping cities and neighborhoods safe, and caring for people at their most vulnerable points. These professions require expertise, and, in the case of safety personnel, involve great danger. The provisions they bargain for in the collective bargaining process can improve our communities. Ohio trusts these professionals to teach children, keep communities safe, and care for the sick. It seems reasonable, then, to trust them to bargain for the resources and personnel they need to get the job done right.

## Introduction

Unions are, famously, “the folks that brought you the weekend”. They’ve fought for the 40-hour workweek, the eight-hour workday, overtime pay and the minimum wage, which have become basic workplace norms, established in law and provided in all law-abiding workplaces. They’ve also pushed for higher wages, health insurance and pension coverage, which have been extended to many union and non-union employers.<sup>1</sup> They’ve fought or bargained for mine safety standards, prohibitions on smoking in the workplace, rules around chemicals and machinery, and dozens of other occupational safety and health standards codified in state and federal law, which reduce injuries, improve air and water quality and make our communities safer.<sup>2</sup> They’ve established protections for whistleblowers who expose wrong-doing in the workplace. They’ve created and maintained pre-apprenticeship and apprenticeship programs which help to provide access to good-paying jobs for workers and access to skilled, trained employees for employers.<sup>3</sup>

Unions also help ensure that prosperity is broadly shared. States with higher levels of unionization have lower poverty levels,<sup>4</sup> higher average incomes,<sup>5</sup> lower workplace deaths, higher educational outcomes,<sup>6</sup> and higher pension and health insurance coverage,<sup>7</sup> even for workers not in unions.<sup>8</sup>

Despite these many clear benefits to society from unionization in the private sector, some have argued that unionization is not appropriate in public workplaces or not suited to professional workplaces. Last spring, Ohio legislators passed Senate Bill 5, which imposes new rules on public sector workers, sharply curtailing collective bargaining, eliminating the right to strike, and in other ways reducing the rights of public sector workers.

Collective bargaining is the process by which members of a labor union and management negotiate over wages, benefits, working conditions, staffing levels and other issues.<sup>9</sup> The right

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<sup>1</sup> Rosenfeld, Jake; Western, Bruce. “Unions, Norms, and the Rise in U.S. Wage Inequality”. *American Sociological Review*. Vol. 76. Issue Num. 4. August, 2011.

<sup>2</sup> Mishel, Lawrence; Walters, Matthew. “How Unions help all Workers”. Economic Policy Institute. August 26, 2003. <http://www.epi.org/page/-/old/briefingpapers/143/bp143.pdf>

<sup>3</sup> Examples of apprenticeship opportunities offered by labor unions are too numerous to list even a fraction, but some examples are these training programs run by the International Brotherhood of Electrical Workers throughout Ohio: <http://www.njatc.org/training/find.aspx>; this list of union-led apprenticeship programs in Cuyahoga County, which train workers for positions in over a dozen fields including bricklaying, carpentry, cement masonry, electrical work, ironwork and more, available here: <http://ucipconstruction.com/apprenticeship.htm>, or this description of the Union Construction Industry Partnership’s Apprenticeship Skill Achievement Program. This Cuyahoga County program, led by unions in the skilled trades, provides pre-apprenticeship programs to prepare students for apprenticeships: <http://ucipconstruction.com/asap.htm>.

<sup>4</sup> Corporation for Enterprise Development 2009-2010 Assets and Opportunities Scorecard

<sup>5</sup> U.S. Bureau of Labor Statistics, Quarterly Census of Employment and Wages

<sup>6</sup> National Education Association, Rankings and Estimates—Rankings of the States 2009 and Estimates of School Statistics 2010

<sup>7</sup> Elise Gould, Employer-Sponsored Health Insurance Erosion Accelerates in the Recession—Public Safety Net Catches Kids but Fails to Adequately Insure Adults, Economic Policy Institute, Nov. 16, 2010; Kaiser Family Foundation, State Health Facts.org

<sup>8</sup> Mishel, Lawrence; Walters, Matthew. “How Unions Help All Workers.” Economic Policy Institute. August 26, 2003. <http://www.epi.org/page/-/old/briefingpapers/143/bp143.pdf>

<sup>9</sup> <http://legal-dictionary.thefreedictionary.com/collective+bargaining>

was established in federal law for businesses involved in interstate commerce in 1935, extended to federal workers in 1978 and extended to state and local workers in Ohio in 1983.<sup>10</sup>

## The Attack on Collective Bargaining

Senate Bill 5 was passed in March 2011. Key provisions<sup>11</sup> of the bill include:

- Eliminating the right to strike for all public workers;
- Limiting the right to bargain over health insurance, pensions, staffing levels and working conditions;
- Confining bargaining rights for state-level employees to wage issues only;
- Eliminating binding arbitration, a process for resolving impasses for safety forces, described below;
- Allowing the legislative body to impose its own resolution in the case of an impasse;
- Reclassifying most professors as management to take them out of bargaining units;
- New minimum requirements for employee contributions to health insurance and pensions;
- Restricting the ability of teachers to advocate for more effective classroom practices, including smaller class sizes and better teacher evaluations.

The bill eliminates the right to strike for all public workers. Although there have been very few public sector strikes since passage of collective bargaining in 1983, the supporters of SB-5 rightly anticipate that without the ability to bargain in many areas, workers would be more inclined to strike. Without the right to strike, workers' main source of leverage is eliminated.

Senate Bill 5 also gets rid of a process called binding arbitration, which is the system used to resolve an impasse between management and workers in police and firefighting occupations, where striking is already forbidden for reasons of public safety. When police officers or firefighters cannot reach an agreement with management on a contract, under current law, an outside arbitrator is brought in to examine the two positions and impose a solution. Both sides agree to abide by the solution imposed by the arbitrator. Historically in Ohio, the arbitrator has sided with labor about half the time and with management about half the time in resolving these disputes.<sup>12</sup> Under the new law, instead, the legislative body at that level can impose its final offer in the case of an unresolved dispute. By sharply reducing collective bargaining rights, eliminating the right to strike and eliminating the right to binding arbitration, the new law effectively eliminates most leverage for the union.

Many public job categories – teachers, police officers, firefighters, prison guards, trash collectors, bus drivers and more – either do not exist or exist in very small numbers in the private sector. This means that workers, some of whom have put substantial amounts of training into becoming experts at specialized tasks, have no ability to seek other employment in their field. If

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<sup>10</sup> Ibid.

<sup>11</sup> Naymik, Mark, "Ohio's Senate Bill 5 will bring dramatic changes", Cleveland Plain Dealer, April 3, 2011, [http://www.cleveland.com/open/index.ssf/2011/04/ohios\\_senate\\_bill\\_5\\_will\\_bring.html](http://www.cleveland.com/open/index.ssf/2011/04/ohios_senate_bill_5_will_bring.html)

<sup>12</sup> Glowacki, Megan; Lazarus, Stephens. "Ohio Public Sector Collective Bargaining: The Facts, Fictions and The Hypocrisy of Senate Bill 5." Hardin, Lazarus, and Lewis, LLC Brief. August 30, 2011.

this bill is allowed to become law, these workers will also have no ability to strike, and no ability to have an outsider intervene to ensure a fair contract.

A famous concept in the social sciences is that of “exit and voice” as two possible responses for members of an organization who are dissatisfied. Employees can quit (exit), or they can use their voice to advocate for change. For public employees, taking away the right to strike severely limits voice, deeply constraining their options. Because so many of these careers also offer limited ability to exit while still using their extensive training, prospective employees are likely to become more reluctant to undergo the training needed and enter these occupations. If Senate Bill 5 is permitted to become law, then, there is reason to have deep concerns about recruitment possibilities.

### Making It an Issue

Senate Bill 5, understandably, was controversial. Six Republicans and all Democrats voted against the bill in the Senate, and two key Republicans were removed from committees after hearing testimony when it became clear to Republican leadership that they were going to oppose the bill.<sup>13</sup> They were replaced by legislators who had not heard the extensive testimony in opposition to the bill.<sup>14</sup> Crowds of many thousands gathered repeatedly at the capital and in smaller rallies around the state to protest the bill.<sup>15</sup> After passage, opponents gathered signatures to place a measure on the ballot to stop the law from going into effect. They gathered 915,456 signatures, a record number and close to four times the 230,000 signatures that were needed to place the issue, now named Issue 2, on the ballot.<sup>16</sup>

On November 8, 2011, Ohio voters will have the opportunity to vote on Issue 2. There has been discussion about costs, employee pay, rights of employees and other issues. What has gone less discussed is what collective bargaining means for the community as a whole. A review of the literature reveals that states with collective bargaining have about the same size budget deficits as states without such bargaining, and have better educational outcomes,<sup>17</sup> although this latter point may be due to the fact that these states tend to be wealthier. Yet, collective bargaining has been frequently portrayed as pitting public employees against residents, citizens and users of public services, as if collective bargaining harms communities. This paper explores whether collective bargaining can also lead to outcomes that benefit communities.

We know that the right to bargain collectively gives public employees more voice. This can mean improved compensation, to be sure, and it can also mean improved job satisfaction and

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<sup>13</sup> Wang, Robert. “Bargaining Bill Passes both Ohio House and Senate.” Canton Repository, March 30, 2011. <http://www.cantonrep.com/news/x402783847/Bargaining-bill-passes-both-Ohio-House-and-Senate>

<sup>14</sup> Guillen, Joe. “Ohio Senate Republicans Pass Collective Bargaining Overhaul by the Narrowest of Margins; Bill moves to the Ohio House.” The Plain Dealer, March 2, 2011. [http://www.cleveland.com/open/index.ssf/2011/03/ohio\\_senate\\_republicans\\_pass\\_c.html](http://www.cleveland.com/open/index.ssf/2011/03/ohio_senate_republicans_pass_c.html)

<sup>15</sup> Vardon, Joe. “Pro-Union coalition delivers 1.3 million signatures for SB-5 referendum.” The Columbus Dispatch, June 29, 2011. <http://www.dispatch.com/content/stories/local/2011/06/29/sb-5-referendum-coalition-to-deliver-more-than-a-million-signatures.html>

<sup>16</sup> Ibid.

<sup>17</sup> See an analysis of National Assessment of Educational Progress data done by Matthew Di Carlo, available here: <http://shankerblog.org/?p=895>

easier recruiting. All of those factors can benefit communities, making more people want to be teachers and firefighters, easing recruitment for those important positions, and ensuring that those employed in such jobs have money to spend in their communities. However, collective bargaining can also lead to contract provisions that directly improve service delivery. These instances are the focus of this report.

In researching this paper, the authors reviewed the literature, conducted interviews with people who have been involved in the bargaining process, and examined a small number of contracts to see if they contained provisions that could be seen as broadly beneficial to the community. This research revealed that the process often leads to clear benefits for communities and steady delivery of public services. In short, collective bargaining, in its current form, has often increased stability for communities and allowed community interests to be represented.

Collective bargaining can benefit clients and communities, because it gives voice to those who deliver public services directly and preserves voice for elected officials. Because public workers have sensitive jobs that often require high levels of commitment and in which outcomes cannot always be easily measured, their voice in service delivery is important. Management generally retains more power in negotiations, but collective bargaining ensures that contracts also benefit from the input of those who deliver services directly – firefighters, police, teachers, social workers, and others.

A look at almost any bargaining contract shows that management’s interests are well represented. In the end, these are generally agreements that both unions and administrators have deemed reasonable and signed off on. Contracts are developed not only through tense negotiations, but also through cooperation and collaborative trade-offs. Even when negotiations stall to the point of needing a third party arbitrator, the end result is usually a contract that represents both parties.

Firefighters, police, teachers, emergency medical technicians and other public employees obviously play vital roles in our communities. We depend on them for safety, stability, and emergency medical care. We want them to mentor, inspire and educate our students. And we count on them to prepare our next generation of workers. Their interests often align with those of the public on important issues. Further, they have substantial expertise regarding how to deliver services safely and effectively. If we trust these workers to uphold our laws, keep our homes and neighborhoods safe, and teach our students, then it is in our interest to trust them to bargain for the resources and personnel to carry out these tasks as they see fit.

This paper consists of this introduction; a brief history of Ohio public sector collective bargaining; a section summarizing interviews and contract reviews of community provisions in contracts for four occupations (teachers, firefighters, police officers and nurses); and a brief conclusion.

## **History of Ohio Collective Bargaining**

Prior to 1983, public workers and public sector management had a contentious and volatile relationship. Workers had no recognized way to voice preferences or express dissatisfaction. Without the right to bargain collectively, public workers often had to resort to work stoppages or

strikes to try to influence their compensation and work conditions. Unfortunately, this friction did not just hurt public employees and employers, it hurt the communities who rely on public workers to keep streets clean, businesses safe, homes free from fire, children and workers educated, buses running, and more. Cities and townships were commonly in upheaval over public sector strikes that led to school stoppages and a halt in local safety services.

With passage of the collective bargaining law in 1983, Ohio set a precedent for cooperation between public sector unions and state administrators that has proven largely beneficial for almost thirty years. Allowing public sector unions to collectively bargain for wages, benefits, and workplace conditions created far greater stability in Ohio. This is best illustrated by the number of public sector strikes before and after the 1983 collective bargaining law. Prior to passage of the law, we were seeing 50-70 public sector strikes a year in Ohio. Since passage we've never had more than 20 strikes in a year and most years, including all of the last 12, have had fewer than 10. Table 1 below shows the number of public sector strikes in Ohio for every year in which the data is available since 1978.

<b>Table 1: Public Worker Strikes, 1978 - 2010</b>					
<b>Year</b>	<b>Public Worker Strikes</b>	<b>Year</b>	<b>Public Worker Strikes</b>	<b>Year</b>	<b>Public Worker Strikes</b>
1978	67	1989	17	2000	2
1979	56	1990	13	2001	8
1980	60	1991	17	2002	6
1981	Na	1992	11**	2003	7
1982	Na	1993	3***	2004	4
1983	Na	1994	13	2005	1
1984	4*	1995	7	2006	6
1985	9	1996	4	2007	4
1986	14	1997	3	2008	3
1987	19	1998	14	2009	2
1988	14	1999	6	2010	0
*04/01/84 - 12/31/84					
** 01/01/93 - 06/30/93					
*** After 7/1/93 data reported by fiscal year (7/1 - 6/ 30)					

The precipitous drop in strikes following the 1983 collective bargaining law was not expected by many of those involved. The law passed on party line votes, with a Democratic legislature and Governor passing the bill and signing it into law without any Republican support. Many opponents of the law predicted giving public sector workers greater bargaining rights would lead to greater numbers of strikes and further instability. Instead, strikes lessened dramatically as described above.<sup>18</sup>

<sup>18</sup> State Employment Relations Board. *Annual Report 2010*. [http://www.serb.ohio.gov/pdf/Annual\\_Report\\_2010.pdf](http://www.serb.ohio.gov/pdf/Annual_Report_2010.pdf)

Limiting strikes in the public sector has direct benefits for the community at large because public sector strikes can damage communities. Teacher strikes can leave children with no school to attend, parents and their employers with child care challenges, or less qualified substitute teachers to temporarily fill in. In 1981, two years before passage of the collective bargaining bill, Ravenna, Ohio experienced the longest teachers' strike in history, lasting 85 days.<sup>19</sup> The strike caused widespread problems for the city of Ravenna, and animosity remained after its conclusion. In hindsight, looking at the demands of the Ravenna teachers' union, it is easy to see how the strife could have been avoided. They were striking for three main reasons: protection against recrimination from the strike, recognition of the Ravenna Education Association as their bargaining agent, and binding arbitration in contract negotiations.<sup>20</sup> Two years later, Ohio's new collective bargaining law granted these provisions to teachers statewide, and strikes like that in Ravenna abruptly dropped to their lowest levels.

The 1979 police and firefighter strike in Toledo similarly illustrates how the 1983 collective bargaining law created greater stability. After reaching an impasse in negotiations over wages, benefits, and the number of officers and firefighters on duty, the safety personnel went on strike on July 1, 1979. The result was two days of chaos in Toledo that led to a judge's injunction ending the strike after violence, looting, and arsons had occurred.<sup>21</sup> Like the Ravenna teachers' strike, this too could have been avoided by enacting the provisions set forth four years later in Ohio's current collective bargaining law. In the interest of protecting communities and maintaining stable safety services, legislators collaborated with police and firefighter unions to ensure they would not strike again. In exchange, safety personnel unions won binding arbitration so that any future impasse in negotiations would be resolved by having a neutral outside negotiator come in, examine the evidence, and make a ruling. Ohio's current collective bargaining law gives communities the assurance that local safety workers will not strike or leave their duties, but they will still have their voices heard and ideas implemented at the bargaining table. In short, Ohio has seen greater stability as a result of public employee collective bargaining rights.

Even some of the original opponents of the 1983 law have recognized the advantage of honoring collective bargaining rights. In 1983, John Galbraith was a Republican state representative extremely opposed to the collective bargaining bill, calling it a "cup of poison for the people of this state." Twenty-eight years later, Mr. Galbraith now sees the law in a much different light: "The situation in Ohio has been pretty peaceful as far as labor relations with public employees. They're trying to undo a pretty successful law. I don't think it's been harmful in any way."<sup>22</sup>

## Community Implications of Bargaining By Occupation

We know that collective bargaining can lead to better wages and benefits, safer workplaces, better training, easier recruitment and other benefits for workers and employers. This section

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<sup>19</sup> Peterson, Iver. New York Times. *Teachers Strike Divides a Rural Ohio Town*. March 11, 1981.

<sup>20</sup> Peterson, Iver. New York Times. *Teachers Strike Divides a Rural Ohio Town*. March 11, 1981.

<sup>21</sup> Troy, Tom. The Toledo Blade. "Bargaining's Last Overhaul in 1983". February 18, 2011. Accessed September 28, 2011. <http://www.toledoblade.com/local/2011/02/18/Bargaining-last-overhaul-in-1983.html>

<sup>22</sup> Troy, Tom. The Toledo Blade. "Bargaining's Last Overhaul in 1983". February 18, 2011. Accessed September 28, 2011. <http://www.toledoblade.com/local/2011/02/18/Bargaining-last-overhaul-in-1983.html>

explores, through interviews and review of contracts, some instances where bargaining in public occupations in Ohio has led to better outcomes for communities.

### Teachers

Teacher unions have negotiated for provisions that improve educational outcomes. Their ability to negotiate these items will be severely curtailed or eliminated if Issue 2 passes. These include negotiating for:

1. Smaller class sizes. This improves the ability to provide individual attention, particularly in the early school years.
2. More pre-kindergarten education to improve school readiness.
3. More coordinated discipline plans so that teachers and principals are consistent.
4. In-school-suspensions instead of out-of-school suspensions for students who have violated rules, to ensure counseling and to prevent troubled students from being out of school and unsupervised.
5. Provision of foreign language classes and provision of multiple foreign language classes.
6. Provision of art, music, and physical education.
7. Preparation time for teachers in core classes to improve curriculum.
8. Provision of sufficient numbers of textbooks and provision of more up-to-date textbooks.
9. Improved teacher assessment and training.

Teachers' unions have received some of the harshest criticism from Senate Bill 5 supporters. They have been accused of protecting bad teachers, being greedy in their collective bargaining, and sacrificing the well-being of students to make more money. The use of these accusations as political rallying cries has become common, illustrated best by Governor Kasich's 2009 proclamation that Ohio needs to "break the back of organized labor in the schools."<sup>23</sup>

Our examination of contracts and our interviews with teacher union officials revealed that teacher interests often align with interests of Ohio's public school students. A teacher's work conditions are the same as a student's learning conditions, and so teachers' interest in smaller classes, proper materials, and a safe classroom atmosphere serve their students as well. Despite deep budget cuts, which reduced state funding for school districts by more than \$1.8 billion over the current biennium and resulted in substantial teacher layoffs, teachers continue to try to negotiate for better schools for themselves and their students.<sup>24</sup>

When teachers collectively bargain, one strong interest is in maintaining a classroom atmosphere conducive to teaching and learning. Some of the most important ways to do so include ensuring manageable class sizes, proper preparation time, adequate materials, and proper student discipline policies. These things make teachers' jobs easier, but they also enable teachers to teach more effectively and help students learn.

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<sup>23</sup> Feather, Carl. The Star Beacon. *Kasich Promises the County won't be Forgotten if Republicans Regain Control*. March 24, 2009. <http://starbeacon.com/local/x343701395/Kasich-promises-county-won-t-be-forgotten-if-Republicans-regain-control/print>

<sup>24</sup> Piet van Lier. *Slash Seize and Privatize: Ohio's Budget Bill and its Impact on Education*. Policy Matters Ohio. June, 2011. [http://www.policymattersohio.org/pdf/BudgetBriefEducation2011\\_0623.pdf](http://www.policymattersohio.org/pdf/BudgetBriefEducation2011_0623.pdf)

## Class Size

Teacher unions are strong advocates for smaller class sizes, which allow more one-on-one attention, better management of classrooms, more spontaneous and creative approaches to class discussion, deeper relationships between students and teachers, easier identification of learning disabilities or learning problems, and an environment that is more conducive to learning.<sup>25</sup> In smaller classrooms, teachers can assign more writing, assign more projects and offer better feedback.<sup>26</sup> Large class sizes can make these assignments unwieldy. Smaller class sizes also allow teachers to assign more essays and essay tests, which according to Ohio Federation of Teachers (OFT) President Sue Taylor, is the best way to evaluate her students. “Acceptable understanding of a concept is best demonstrated through students themselves - through writing and explaining how they understand [a concept] in their own words,” she said. “And the degree of feedback and attention I could offer certainly depended on the amount of students I had.” Deb Tully, OFT Director of Professional Issues and former language arts teacher, added that language arts standards apply across all classes, so getting students to write well early is important to their success. A substantial body of academic literature and frequent comments by employers, pundits and policy makers speaks to the value of writing skills.<sup>27</sup>

Research has shown that smaller classes can be most helpful to students early in their learning careers. Specifically, in kindergarten through third grade, outcomes of smaller class sizes are significant.<sup>28</sup> With this in mind, in 2007 the Cleveland Teachers’ Union, an affiliate of the American Federation of Teachers, bargained with local management to lower class sizes to a maximum of 20 students in K-3 classes. “We had to negotiate this, we had to fight for these provisions. Our teachers are professional advocates for kids,” says CTU President David Quolke.<sup>29</sup> They paralleled their efforts in K-3 classes with negotiating for preschools in every elementary school in the district. Quolke explained that many children entering kindergarten in the school district simply weren’t prepared, and that Cleveland students often have disadvantages that necessitate strong programs early in their learning careers. With about 85% of the children in the district on free and reduced lunch, and almost 30% of Cleveland public school students moving between schools every year, Quolke argued that the union has to fight to offer early advantages to these kids in the hope of offsetting some of these disadvantages.

## Discipline

To maintain positive classroom atmospheres, unions also negotiate strong disciplinary procedures and security measures at schools. Discipline is an issue that requires cooperation between teachers and principals, but under Senate Bill 5 unions will not have the right to negotiate how discipline processes will work. The Columbus Education Association has worked with administration officials through Association Building Councils to develop discipline plans

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<sup>25</sup> National Council of Teachers of English. “More than a Number: Why Class Size Matters.” NCTE Position on Class Size, K-College, 1999. Accessed September 25, 2011.

<http://www.ncte.org/positions/statements/whyclasssizematters>

<sup>26</sup> Horning, Alice. “The Definitive Article on Class Size.” Writing Program Administration. Volume 31, Numbers 1-2. Fall, 2007. Accessed September 26, 2011. <http://wpacouncil.org/archives/31n1-2/31n1-2horning.pdf>

<sup>27</sup> Ibid.

<sup>28</sup> Word, E., Johnston, J., Bain, H., Fulton, D.B., Boyd-Zaharias, J., Lintz, M.N., Achilles, C.M., Folger, J., & Breda, C. (1990). *Student/Teacher Achievement Ratio (STAR): Tennessee’s K-3 Class-Size Study*. Nashville, TN:

Tennessee State Department of Education. Accessed September 25, 2011. <http://www.heros-inc.org/summary.pdf>

<sup>29</sup> Interview with CTU President David Quolke

in the past. Under Senate Bill 5, administrators will not be compelled to work with teachers through these councils. That's a problem for Rhonda Johnson, President of the CEA, who says discipline plans are already sometimes violated by principals, undermining teacher authority in the classroom.<sup>30</sup> To maintain a classroom that is not disrupted by inappropriate student behavior, teachers and principals need to be on the same page and send a consistent message to students.

The Cleveland Teachers' Union demonstrated in 2007 how teacher unions take action in the interest of helping disruptive students. They negotiated for in-school suspensions for children who normally would be taken out of school for a number of days.<sup>31</sup> CTU President Quolke says, "We didn't want to put kids out on the street just because they're disruptive." Children sent to in-school suspension in Cleveland schools now go to planning centers where efforts are made to find out what problems the students have and what is driving their behavior. Professional psychologists and sociologists are on hand to talk to students in these school-based suspensions, in the hopes of helping them reenter classes in a more positive state.<sup>32</sup>

### Better School Quality

Teacher unions use collective bargaining to work with administrators to improve school quality in their districts. This often means advocating for classroom resources and greater options for students.

The Columbus Education Association used collective bargaining to guarantee students could learn a foreign language in their local high schools. They also bargained for students to have several choices of foreign languages to learn. Article 306 of their 2009 contract stipulates that, "During the course of this Agreement, the high school citywide course selection sheets shall include French, Spanish, German and Latin."<sup>33</sup> Additionally, the union negotiated to have a certain number of hours per week that students would be taught art, music, and physical education classes. These are commonly areas administrators look to cut to save on costs. Teacher unions bargain to preserve them so that students have creative outlets and a well-rounded education.

For example, in a 2004 dispute between the Cincinnati Federation of Teachers and Cincinnati Public Schools, a fact-finder from the State Employment Relations Board examined the issue of hiring four additional specialists (art and music teachers, librarians, counselors), as was agreed to in their prior contract. The fact finder noted the following union arguments for hiring four new specialists in the district:

- "The Union is concerned that a number of schools do not presently have specialists, and only 22 of 61 schools have libraries."

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<sup>30</sup> Interview with CEA President Rhonda Johnson

<sup>31</sup> Cleveland Teachers Union 2007 collective bargaining agreement. Pg. 81. State Employment Relations Board website. <http://www.serb.ohio.gov/sections/research/web%20contracts/07-CON-01-0473.pdf>

<sup>32</sup> Interview with CTU President David Quolke

<sup>33</sup> CEA 2009 Master Contract. State Employment Relations Board web site. Accessed September 1, 2011. <http://www.serb.state.oh.us/sections/research/Web%20contracts/09-CON-01-0723.pdf>

- “Children are being neglected and teachers are spending their own money for library materials in their classrooms to provide necessary services.”
- “The Union contends that elementary instrumental music services are vital for young children. It is widely recognized that instrumental instruction helps children with math skills. The district has received grant money for instruments, but now there is an excess of instruments and not enough teachers.”<sup>34</sup>

The fact finder’s report also recognized management concerns against hiring the new specialists. The school district argued that libraries are not required in each school, only the provision of library services, which can be accomplished through computers.<sup>35</sup> They also argued that the district could not afford the new specialists, and that school committees might wish to spend their money on items other than the specialists.<sup>36</sup> In the end, the fact finder recommended that the district hire the new specialists, because the cost of such action and the need for the extra specialists was recognized when the original contract was bargained.

Art, music, and physical education courses also serve the purpose of improving teacher effectiveness by providing class preparation periods for teachers. The Cincinnati Federation of Teachers’ 2009 collective bargaining contract states, “The Federation and Board Agree that all elementary students should have regular instruction by art, music, and physical education specialists. While such instruction is scheduled, the regular classroom teacher shall have a preparation and/or conference period.”<sup>37</sup> Preparation time allows teachers to devise innovative teaching methods and collaborate with other teachers to improve services. It also gives time for grading, which allows more challenging writing assignments that take more time to provide feedback. This is an area where collective bargaining benefits students and parents twofold: They maintain creative outlets through art, music, and P.E. classes, while improving their daily curricula with the preparation time created by such classes.

Collective bargaining also ensures that student textbooks and school resources are sufficient. A clause commonly found in teacher contracts states that the administration is responsible for providing adequate classroom resources and textbooks that are not out-of-date. The unions have also negotiated to make sure textbooks avoid male and female stereotypes and reflect a diverse, integrated American society.<sup>38</sup>

### **Improved Evaluations**

Opponents of teacher unions commonly claim that the unions protect bad teachers and use arbitrary systems for layoffs and wages based on seniority. This is reflected in Senate Bill 5, which creates a merit pay system and does not allow seniority to be the deciding factor in how hiring, transfers and layoffs take place. Our research found that seniority is not as prominent an

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<sup>34</sup> State Employment Relations Board. Fact Finding Report between Cincinnati Public Schools and the Cincinnati Federation of Teachers, Local 1520. May 19, 2004. Accessed October 3, 2011.

<http://www.serb.state.oh.us/sections/research/WEB%20FACT-FINDING/2003-MED-10-1217.pdf>

<sup>35</sup> Ibid.

<sup>36</sup> Ibid.

<sup>37</sup> Cincinnati Federation of Teachers 2009 collective bargaining contract. State Employment Relations Board website. <http://www.serb.ohio.gov/sections/research/Web%20Contracts/06-MED-10-1273.pdf>

<sup>38</sup> CEA 2009 Master Contract. State Employment Relations Board web site. Accessed September 1, 2011. <http://www.serb.state.oh.us/sections/research/Web%20contracts/09-CON-01-0723.pdf>

issue in hiring and layoff procedures as it is often portrayed, and that teacher unions have taken their own steps to improve teacher quality and evaluation systems.

Through collective bargaining, the Toledo Federation of Teachers created a program that became a national model for evaluating teachers and improving teacher quality. The Peer Assistance and Review (PAR) program was created in the 1980's and adopted by Toledo, Columbus, and Cincinnati school districts.<sup>39</sup> Today it is in about 70 school districts around the country.<sup>40</sup> The Cleveland school district began a similar program two years ago. PAR programs allow experienced teachers to leave the classroom for a length of time to mentor newly-hired and struggling teachers. PAR also serves as an evaluation system, in that mentors make final recommendations concerning teachers they've worked with. The PAR programs are a collaborative effort between administrators and teachers that is worked out through collective bargaining. Each program has a governing panel made up of district and union appointees to match similar mentors and teachers together, and review final recommendations. It is a more collaborative approach to evaluating teachers, taking much of the burden off of principals and other administrators.<sup>41</sup> A 2007 nationwide study of teacher union presidents and their collective bargaining contracts found that, "(PAR) programs in Cincinnati and Columbus, Ohio, and Montgomery County, Md., represented the most intensive efforts to ensure teacher quality by reforming supervision and evaluation." The study went on to say, "The most well-developed mentoring programs were provided through the PAR programs... in Cincinnati and Columbus, Ohio."<sup>42</sup>

The PAR program, originally developed by teacher unions, demonstrates that teachers often embrace well-designed efforts to evaluate themselves and build their skills. At its most basic level PAR is an effort by teacher unions to help inexperienced teachers become successful, help some struggling teachers improve performance, and provide a process to move teachers who can't improve out of the profession.

Senate Bill 5's reduction in the importance of seniority in determining layoffs has gotten a lot of attention. And indeed, teachers' unions generally support providing job security to veteran teachers who are doing their jobs. However, both Rhonda Johnson and Sue Taylor, presidents of the Columbus Education Association and the Ohio Federation of Teachers respectively, say that seniority usually acts as a tie-breaker after other important issues are considered.<sup>43</sup> When positions need to be cut or filled, teachers' certifications and areas of expertise are first considered. Principals also retain a high level of discretion in determining which teachers are dismissed or who they can hire. For example, in Columbus, says Johnson, a newly hired teacher is guaranteed his or her position in a school for a maximum of two years. After that time, the principal is free to interview a new pool of applicants and replace the teacher.<sup>44</sup> A 2007 study of

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<sup>39</sup> van Lier, Piet. "Learning from Ohio's Best Teachers. A Homegrown Model to Improving our Schools." Policy Matters Ohio. October 7, 2008. <http://www.policymattersohio.org/pdf/PAR2008.pdf>

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

<sup>42</sup> Donaldson, Morgaen. Johnsons, Susan. Munger, Mindy. Papay, John. Qazilbash, Emily. "Leading the Local: Teachers Union Presidents Speak on Chang, Challenges." Education Sector, June 2007. Accessed September 20, 2011. <http://www.mikemcmahon.info/UnionLeaders.pdf>

<sup>43</sup> Interviews with OFT President Sue Taylor and CEA President Rhonda Johnson.

<sup>44</sup> Ibid.

teacher union presidents and their collective bargaining contracts found that, “Union presidents said that principals had substantial discretion in hiring and assigning new teachers, a view that our contract analysis confirmed.”<sup>45</sup>

### **Police and Firefighters**

Police officers and firefighters use collective bargaining to negotiate for the resources to perform their duties safely and effectively in Ohio communities. Some of the provisions they negotiate for are:

1. Safe and adequate equipment to protect officers and civilians.
2. Sufficient staffing levels to maintain fast response times.
3. Higher staffing levels in extreme circumstances such as adverse weather conditions.
4. Continued training programs for up-to-date medical techniques and emergency operating procedures.
5. Participation between management and employees to solve problems between contracts in a flexible and timely manner.

Public safety personnel, including police officers and firefighters, lose the right to binding arbitration under Senate Bill 5. This has been the most contentious issue between SB-5 supporters and police and fire unions, because binding arbitration was provided to those forces in the 1983 collective bargaining bill in exchange for taking away their right to strike. Binding arbitration is a process to solve an impasse between the unions and public employers during negotiations. If continued negotiations and fact finding processes fail to produce an agreement between unions and administrators, each side is required to submit its final offers to a third party arbitrator, who is certified in Ohio to make a final decision. This arbitration process is “binding”, in the sense that once an arbitrator has chosen an offer, that decision is final. For this reason, very few negotiations actually reach arbitration, as neither side wishes to take the decision-making process out of their hands. However, arbitration does compel each side to negotiate in good faith, because unfair demands or cuts, or “bad-faith” bargaining techniques, will not hold up to the scrutiny of a third party arbitrator. Historically, arbitrators have sided with management about half the time, and unions the other half.<sup>46</sup> Since 2008, fewer than two percent of all collective bargaining negotiations have been resolved by outside arbitration in Ohio.<sup>47</sup>

Under Senate Bill 5, third party arbitrators would be replaced by the local legislative authority and its decision would be final. This means that an extension of management would essentially be the final judge of its own negotiation disputes, which has been the most problematic aspect of SB-5 for police, firefighters, and legislators opposed to SB-5. Senator Jim Hughes, one of the five Republican state senators to oppose SB-5, said of the provision, “I have some concerns with that because as I read it, and I’m an attorney, the legislative body that would be deciding (the

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<sup>45</sup>Donaldson, Morgaen. Johnsons, Susan. Munger, Mindy. Papay, John. Qazilbash, Emily. “Leading the Local: Teachers Union Presidents Speak on Chang, Challenges.” Education Sector, June 2007. Accessed September 20, 2011. <http://www.mikemcmahon.info/UnionLeaders.pdf>.

<sup>46</sup>Nash, James, “GOP Targets Contract Settlers: But binding arbitration often favors government and alternative is unclear,” Columbus Dispatch, 1/23/2011, at <http://www.dispatch.com/content/stories/local/2011/01/23/gop-targets-contract-settlers.html>

<sup>47</sup> *ibid.*

final contract) is the same management that is in negotiations with labor.”<sup>48</sup> Senator Bill Seitz, another Republican senator opposed to the bill, said it made union and public employer negotiations like, “going to divorce court and finding your wife’s father is the judge.”<sup>49</sup>

Without binding arbitration, police and firefighter unions argue that their ability to collectively bargain is effectively lost. Without either binding arbitration or a right to strike, they lack any sort of leverage at the bargaining table. There are issues that they are still permitted to bargain for, such as personal safety equipment, but they lack the leverage to do so in any meaningful way. As President of the Fraternal Order of Police in Ohio Jay McDonald said, in reference to safety equipment, “Even if you have the right to ask for them, in a Senate Bill 5 world, that’s all you get to do is ask. We’re going to be dependent upon the benevolence of our employers when we’re talking about safety equipment.”<sup>50</sup> If management only wants to buy the cheapest safety equipment, or decides that certain equipment is not appropriate for bargaining, police officers will have no recourse to fight for the equipment they believe they need.

The collective bargaining process has made Ohio’s roads and police forces safer. In 2003 the Ohio State Troopers Association (OSTA) lobbied management for safety improvements to their Crown Victoria cruisers after a Missouri State Trooper was killed in a fire while driving a Crown Victoria. The model was prone to fire in the wake of rear impacts.<sup>51</sup> Class action lawsuits began arising because of the safety defect, but management would not install steel plates that would protect the car’s fuel tank and fix the defect, as OSTA wanted.<sup>52</sup> Management did not react until two Ohio state troopers and a civilian were killed in 2005 when the civilian’s truck crashed into the rear of the trooper’s car, which immediately burst into flames. Following the deaths of the troopers, OSTA was finally able to force management to fix their cruisers’ defect through collective bargaining. However, in those negotiations the officers had the ability to use fact-finders and arbitration as leverage to sway management.<sup>53</sup> Under Senate Bill 5, those processes would be lost, and management could legally continue to refuse safety improvements that can protect both officer and civilian lives.

On top of losing their right to binding arbitration, police and firefighters would not be allowed to discuss staffing levels under Senate Bill 5. Under current collective bargaining law, firefighters and police officers negotiate staffing levels that are sufficient to deliver high quality service and faster response times. Jim Astorino, President of the Northern Ohio Fire Fighters, says that the unions have cut deals and made concessions in order to retain adequate staffing levels. He argues that no matter how much the union gives back in financial concessions, management tends to

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<sup>48</sup> Siegel, Jim. “Senate Bill 5 passes, heads to Ohio House”. The Columbus Dispatch. March 2, 2011. Accessed September 20, 2011. <http://www.dispatch.com/content/stories/local/2011/03/02/02-senate-yank-seitz.html>

<sup>49</sup> Phillips, Jim. “Hundreds Rally to get Fired Up Against S.B. 5”. The Athens News. October 2, 2011. Accessed October 4, 2011. <http://www.athensnews.com/ohio/article-34959-hundreds-rally-to-get-fired-up-against-sb-5.html>

<sup>50</sup> Ensinger, Dustin. “Ohio Bill would Undermine Public Safety Workers’ Collective Bargaining Rights”. The Minnesota Independent. September 29, 2011. Accessed October 3, 2011. <http://minnesotaindependent.com/88927/ohio-bill-would-undermine-public-safety-workers-collective-bargaining-rights>

<sup>51</sup> Testimony on Senate Bill 5 of Elaine Silveira, Assistant General Counsel to the Ohio State Troopers Association, in front of the House Commerce and Labor Committee.

<sup>52</sup> Crown Victoria Safety Alert web site. <http://crownvictoriasafetyalert.com/crown-victoria-safety-alerts-timeline>

<sup>53</sup> Testimony on Senate Bill 5 of Elaine Silveira, Assistant General Counsel to the Ohio State Troopers Association, in front of the House Commerce and Labor Committee.

want to cut staff. He worries that administrators don't understand the staffing levels needed to respond to all types of emergencies and that without firefighter input, staffing levels could be dangerously low.<sup>54</sup> For example, in firehouses around Ohio, city administrators have started encouraging "mutual aid" agreements between cities where firefighters can be deployed to neighboring cities when too few firefighters are on duty. Astorino doesn't mind the idea of helping neighboring fire departments, but he argues that excessive dependence on this approach leaves communities vulnerable when their trucks leave town, and increases response times by depending on far-away firehouses. He believes that input from firefighters brings these safety issues to light, "We do this for a living and we know what safety levels are needed. Why would you silence our voices?"<sup>55</sup>

In addition to bargaining for routine staffing levels, firefighters' and police officers' direct experience on the job enables them to understand situations when staffing levels should differ from the norm. "Some contracts say you've got to have extra people on staff on really hot days," Astorino said. "When it's over ninety degrees and you walk into a burning building, you're beat after just a few minutes. You need more back up to get the job done."<sup>56</sup> The input of firefighters helps ensure that firehouse operating procedures encompass extreme situations and that emergencies are met with appropriate responses regardless of other conditions.

Firefighters and police officers will also lose the right to bargain over training programs under Senate Bill 5. One of Astorino's biggest concerns is their access to training programs for firefighters. "We want so many hours of continuing education in our contract."<sup>57</sup> The reasons for this are straightforward: firefighters must have medical skills to treat victims. The skills need to be kept current and updated as new medicines and techniques are employed. They also deal with a wide variety of equipment that changes over time. Their ability to limit disasters and save lives depends on their ability to properly utilize all of the resources at their disposal. This requires constant practice and a certain level of expert training so that firefighters can execute rescue operations. State law also requires that fire training, first-responder, and EMT certifications are renewed every couple of years, with each renewal requiring anywhere from 18-56 hours of continuing education.<sup>58</sup> For these reasons the union fights for training and continuing education investments from local governments even as concessions in wages, overtime, and hours have to be made. Police unions also value the ability to bargain for training investments so they are well-practiced in emergency operating procedures and firearms proficiency.

Currently, firefighters and police officers can discuss staffing levels, equipment, and training with management consistently and cooperatively between contract negotiations. Contracts create committees and processes for employers and employees to discuss and solve problems as they arise. For example, in a Northern Ohio Fire Fighters contract from 2009, an Occupational Health and Safety Committee was created to, "conduct research, develop recommendations, study, and review matters pertaining to occupational safety and health within the fire department."<sup>59</sup> Made

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<sup>54</sup> Interview with Northern Ohio Fire Fighters President, Jim Astorino.

<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

<sup>57</sup> Ibid.

<sup>58</sup> Ohio Administrative Code, Chapter 4765-20 Fire Service Training Programs. <http://codes.ohio.gov/oac/4765-20>

<sup>59</sup> City of North Olmsted and IAFF Local 1267 Master Agreement, 2009. Page 27.

<http://www.serb.ohio.gov/sections/research/web%20contracts/08-MED-09-1048.pdf>

up of the fire department Safety Manager, members of fire department management and three union firefighters, the committee advises the fire chief prior to final decisions on any issue regarding staff or civilian safety. The fire chief and department management maintain the sole right to final decisions, but the process of employee inclusion ensures that firefighters can request the safest and most effective equipment for emergency responses or voice other concerns. Police unions and almost all other public employee unions use these committees and collaborative efforts with management between contracts to solve problems in a flexible, timely manner. Under Senate Bill 5, much of what these committees do would be considered “inappropriate” and management would not be compelled to take part.<sup>60</sup> Thus decisions on safety, staffing, equipment, emergency response procedures and other issues could be made without any input from police officers and firefighters actually delivering those services.

### Nurses

Between 6,000 and 10,000 nurses in the public sector will also lose collective bargaining rights under Senate Bill 5.<sup>61</sup> Many times, the provisions these workers collectively bargain for are in the interest of the patients they serve. Some of the provisions they negotiate to ensure high quality services are:

1. Adequate staffing levels for nurses and sufficient patient-nurse ratios.
2. Schedules to ensure nurses are not overworked so that the quality of their services does not decline

Research has shown that nurses who are overworked because of low nurse-patient ratios or excessive work hours are more prone to errors and offer poorer patient care. A 2004 report found that, “The risks of making an error were significantly increased when work shifts were longer than 12 hours, when nurses worked overtime, or when they worked more than forty hours per week.”<sup>62</sup> In that study, 39% of the nursing shifts studied exceeded 12.5 hours and the analysis showed that nurses were three times more likely to commit an error after working over 12.5 hours.<sup>63</sup>

To help avoid errors, nurses’ unions collectively bargain with management to ensure nursing schedules and staffing ratios are adequate and safe. Julie Albers, of AFSCME Local 3360, explained how they use collective bargaining to keep consistent scheduling and define the working hours expected of them. For example, in their 2007 master contract it states, “To the extent possible, employees should be scheduled at the same or similar start time, which is defined as within one (1) hour’s time, within any week.” This is to avoid nurses finishing 12- and 16-hour shifts and being required to return to work only a few hours later. Albers worries that management has no incentive to maintain normal scheduling hours under SB-5, and that nurses

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<sup>60</sup> Senate Bill 5 as enacted. [http://www.legislature.state.oh.us/BillText129/129\\_SB\\_5\\_EN\\_N.pdf](http://www.legislature.state.oh.us/BillText129/129_SB_5_EN_N.pdf)

<sup>61</sup> PolitiFact Ohio. “We Are Ohio claims SB 5 would make it harder for nurses to care for patients”. The Plain Dealer. October 10, 2011. <http://www.politifact.com/ohio/statements/2011/oct/10/we-are-ohio/we-are-ohio-claims-sb-5-would/>

<sup>62</sup> Aiken, Linda. Dinges, David. Hwang, Wei-Ting. Rogers, Ann. Scott, Linda. “The working hours of hospital staff nurses and patient safety”. *Health Affairs*, 23(4), 202-212. Accessed, September 30, 2011. <http://content.healthaffairs.org/content/23/4/202.full>

<sup>63</sup> Ibid.

at MetroHealth Hospital in Cleveland could be overworked with longer shifts and sporadic starting times.

Nurses who have too large a patient load are forced to offer less attention and care. Research on nurse-patient ratios has been unable to pinpoint a universal “best” ratio, but it has consistently recognized the importance of adequate nurse staffing levels to provide high quality patient care. Evidence shows that better nurse staffing levels are associated with better patient outcomes and improved patient safety.<sup>64</sup> A 2002 study found that each additional patient assigned to a nurse’s normal workload increased the chances of patient mortality by seven percent.<sup>65</sup>

The fact that research has shown nurse-patient ratios are important to patient care but has not found a perfect nurse-patient ratio for all cases suggests that differing hospital settings require different staffing levels to be effective. Therefore, the ability of nurses to bargain over staffing levels is important to recognizing the needs of a hospital at a certain place and time. Under Senate Bill 5, management could set arbitrary staffing levels without the input of nurses. This might not meet patient needs. As Kelly Trautner of the Ohio Nurses’ Association put it in her testimony opposing Senate Bill 5, “[Under SB-5] it would be an unfair labor practice for our nurses to approach their employer when nurse staffing levels become dangerously low on a facility or a unit-based level. In other words, the voice of nursing will no longer be able to intervene when the employer refuses to staff adequate numbers of nurses to safely care for their patients.”<sup>66</sup> This is an unfortunate consequence of Senate Bill 5, because the input of nurses has been recognized in research as an important factor in offering quality patient care. Currently in Ohio, management and nurses use the flexibility of collective bargaining to address issues as they rise through Labor Management Committees and Memorandums of Understanding. If nurses consistently find themselves short-staffed or overloaded with high-risk patients, they communicate with management to come to a solution. In 2004 the Institute of Medicine, the health arm of the National Academy of Sciences, released a report that detailed how hospitals could benefit from greater input from their nurses. The report suggested:<sup>67</sup>

- Health Care Organizations should have nurse leaders who participate in executive decisions and facilitate input from direct-care nursing staff into operational decision-making, the design of work processes and work flow.
- Direct-care nursing staff should be involved in determining appropriate unit staffing levels for each shift.
- Nursing unit staff should be empowered to regulate workflow and set criteria for admissions and transfers as nursing workload and staffing necessitate.

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<sup>64</sup> Katharine Kranz Lewis. “Nurse-to-Patient Ratios.” Massachusetts Health Policy Forum, Issue Brief. March 30, 2005. Accessed September 27, 2011. <http://masshealthpolicyforum.brandeis.edu/publications/pdfs/25-Mar05/IssueBrief25.pdf>

<sup>65</sup> Aiken, L.H., Clark S.P., Sloan D.M., Sochalski J.& Silber J.H. (2002). Hospital Nurse Staffing and Patient Mortality, Nurse Burnout, and Job Dissatisfaction. *Journal of the American Medical Association*, 288(16), 1987-93. [http://www.center4nursing.com/documents/HospitalNurseStaffing\\_Jama2002.pdf](http://www.center4nursing.com/documents/HospitalNurseStaffing_Jama2002.pdf)

<sup>66</sup> Ohio Nurses Association Testimony on Senate Bill 5. March 10, 2011. <http://www.ohnurses.org/AM/Template.cfm?Section=Home&CONTENTID=7713&TEMPLATE=/CM/ContentDisplay.cfm>

<sup>67</sup> Institute of Medicine (2004) Keeping Patients Safe: Transforming the Work Environment of Nurses. Washington, D.C., National Academies Press.

Patients have also shown appreciation for better nurse working environments. A 2009 study found that patient satisfaction with hospitals was directly related to the work environment of nurses, and that patient-nurse staffing ratios were significantly associated with an improved patient experience.<sup>68</sup>

Nurse unions currently provide the function of improving nurse working conditions, maintaining safe staffing levels, and improving patient care at hospitals and nursing homes around Ohio. Senate Bill 5 will eliminate nurses' input in these environments, which is antithetical to the conclusions of multiple studies showing patient outcomes are tied to the quality of nurse working environments. Allowing nurses to negotiate their schedules and their workloads has been shown to be beneficial to nurses and patients alike.

## Conclusion

Anybody who has ever sent a child to a public school, been a patient in a public hospital, heard footsteps behind them on a dark street or seen news coverage of a local fire knows that public employees and community well-being are integrally intertwined. We need to be able to recruit committed, qualified employees who will keep their skills up to date, remain dedicated to their jobs, and have the equipment, training, staffing ratios and stature that they need to do their jobs and do them well.

Ohio legislators voted last spring to sharply limit collective bargaining, get rid of the right to strike, abolish binding arbitration, and in other ways reduce the input that public workers have in negotiating for better work conditions. Defenders of collective bargaining gathered 915,456 signatures and succeeded in placing an issue on the ballot to prevent the collective bargaining repeal from becoming law until the voters have a chance to weigh in. On November 8, 2011, Ohio voters will get the chance to vote 'yes' and allow these sweeping changes to the collective bargaining law, or to vote 'no' to retain the law that has been in place for more than a quarter century.

While there has been extensive discussion of the effects of collective bargaining on wages and benefits, there has been less focus on whether collective bargaining can benefit the communities being served by improving the quality of public services and the ability of workers to deliver the best services. We reviewed the literature, examined a small number of public contracts, and interviewed those who've negotiated contracts. We found that public employee unions often negotiate for provisions that benefit the public.

Our research found that teachers have bargained for smaller class sizes for young children; consistent discipline plans; in-school suspensions for troubled students; more foreign language options; more music, art and physical education classes; better teacher training and better teacher assessment. Police officers and firefighters have used collective bargaining to negotiate for safety equipment, adequate staffing levels that can enable faster response times, and better

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<sup>68</sup> Kutney-Lee, A, McHugh, M.D., Sloane, D.M., Cimiotti, J.P., Flynn, L., Felber Neff, D., and Aiken, L.H. (2009). Nursing: A Key to Patient Satisfaction. *Health Affairs* 28 (4).

training. Nurses have used collective bargaining to negotiate for better nurse-patient ratios and for scheduling that avoids fatigue and errors.

On the whole, public workers are modestly compensated – paid less than private workers with comparable education and experience. But of course much of the time collective bargaining is used to negotiate for better compensation. This too can be a positive – we want to be able to recruit skilled employees for public jobs and decent compensation eases that task. Decently-paid workers can better focus on their jobs and have resources to spend in their communities. All that said, this paper documents that collective bargaining is frequently used to bargain in ways that more directly benefit the community.

Since 1983, collective bargaining for public employee unions has worked for Ohio. Unions have bargained on behalf of their members, but much of what they fight for serves the community at large. The input of these employees is valuable because of their expertise as frontline workers. Ohio trusts these professionals to teach children, keep communities safe, and care for the sick. It seems reasonable, then, to trust them to bargain for the resources and personnel they need to get the job done right. A ‘no’ vote on Issue 2 will enable these workers to continue to bargain on their own and our behalf.

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