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2 Public Sector Bargaining Laws Really Matter: Evidence from Ohio and Illinois

Gregory M. Saltzman

2.1 Introduction

A generation ago, America had two starkly different legal policies governing collective bargaining and union activity—one for employees of the government and another for employees of private corporations. The erosion of this difference, as more and more states have enacted public sector bargaining laws patterned after the National Labor Relations Act (NLRA), is one of the most important developments in American labor law since 1947. These important legal changes, however, came as a surprise to most industrial relations scholars, and they have not been fully explained even retrospectively.[1]

Two states, in particular, confounded general models of legal policymaking in public sector labor relations: Ohio and Illinois. They were exceptions for two reasons. First, although both were industrialized, highly unionized states located in the North, neither had a statute granting public employees the right to bargain. (The other states lacking such statutes, e.g., Mississippi, North Carolina, and Utah, were generally more conservative states located in the South or the Rocky Mountains.) Kochan (1973, 336–37) noted that the lack of bargaining laws in Ohio and Illinois was anomalous even in the early 1970s, when many states lacked such laws. The Ohio-Illinois anomaly became more striking during the middle of that decade, as the number of other states

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lacking bargaining laws declined. Second, although neither Ohio nor Illinois had a public sector bargaining statute, they both had many public sector collective bargaining contracts. Burton (1979, 15) cited this fact when he argued that bargaining laws were not the major impetus behind the spread of public sector bargaining.

The exceptional status of Ohio and Illinois ended in 1983, when both states enacted comprehensive bargaining statutes covering most state and local public employees. This chapter examines the reasons why those statutes were finally enacted then and also why previous attempts to secure legislation failed. The analysis of those reasons is based on open-ended interviews with over three dozen union and management lobbyists, legislators, legislative aides, labor lawyers, and other informed practitioners, as well as an examination of legislative documents. Then, the chapter uses quantitative data to measure the impact of these statutes on public sector labor relations in both states. The major conclusions are:

- Bargaining statutes were delayed in Illinois chiefly by the desire of the Chicago Democrats to maintain patronage arrangements and in Ohio chiefly by the insistence of unions that they get a strongly pro-union statute or none at all.
- The enactment of the bargaining statutes in those two states in 1983 was the result of idiosyncratic political events and not of a general trend toward public sector unionism.
- The enactment of these bargaining statutes brought a substantial increase in the extent of bargaining coverage in Ohio and Illinois, even though public sector bargaining had been widespread in both states for years. Some public employers, however, resisted the unionization of their employees even after the 1983 bargaining statutes were passed, which is something that generally did not happen after the public sector statutes enacted earlier in other states.
- The Illinois statute strengthened the bargaining power of teacher unions which had already bargained before the statute. (No baseline data were available on bargaining outcomes prior to 1983 for other employee groups in Illinois or for public employees in Ohio.)

The data underlying these conclusions are presented in the following sections, beginning with the history of public sector bargaining laws in Ohio and Illinois.

2.2 History of Public Sector Bargaining Law in Ohio

Before 1983, Ohio's public sector labor relations were largely unregulated by law. There were, however, some statutes and court decisions that regulated particular aspects of public sector labor relations,

as well as a host of bills that failed to be enacted. The first major developments came in 1947, when the same national tide that brought the Taft-Hartley Act brought two efforts to curb public sector unions in Ohio. In January 1947, the Ohio Supreme Court ruled in *Hagerman v. Dayton*[2] that local governments could not permit voluntary deduction of union dues from their employees' paychecks. The court went on to declare that municipal contracts with unions were an improper delegation of governmental authority. A few months later, the Ohio legislature enacted the Ferguson Act,[3] which banned public employee strikes and provided for dismissal of strikers. Furthermore, any striker who was rehired would get no pay increase for one year and would be on probation for two years.

Supporters of public sector unions tried to overcome these two 1947 setbacks, although their efforts accomplished little until 1959. In 1947, shortly after the *Hagerman* ruling, two bills were introduced that would have authorized public sector bargaining,[4] but both bills died in committee. Then, following the Democratic victory in the 1948 legislative elections, the House passed bills to repeal the Ferguson Act[5] and to protect the right of public employees to join unions.[6] The Ferguson Act repeal bill, however, was voted down in the Senate,[7] and the bill protecting the right to join unions never came up for a Senate vote. Several other bills were introduced in the next decade; the most successful of them died in a Senate committee after passing the House.

In 1958, the national tide toward the Democrats was strengthened in Ohio by a right-to-work referendum, which mobilized the labor vote. As a result, the Democrats won simultaneous control of both houses of the legislature and the governorship for the first time since their victory in the 1948 elections, and Ohio's second public sector labor statute was enacted. In 1959, a state senator (who happened also to be a staff representative for the United Steelworkers of America) introduced a bill that would have protected the right of public employees to join a union, authorized informal negotiations, and overturned the *Hagerman* ruling that outlawed union dues checkoff. Amendments narrowed the bill so that it simply authorized dues checkoff. The bill was then passed and signed into law.[8]

In the 1960s, the major legal development was the frequent nonenforcement of anti-union provisions of the law. First to fall by the wayside was the portion of the *Hagerman* ruling that declared public sector bargaining an improper delegation of governmental authority. Cincinnati, which had bargained informally with the American Federation of State, County, and Municipal Employees (AFSCME) ever since the 1940s (Heisel interview), formalized the relationship beginning in 1960. By 1968, all of the other major cities in Ohio (Akron, Cleveland, Columbus, Dayton, Toledo, and Youngstown) had also signed

contracts with AFSCME.[9] Teachers and fire fighters began bargaining too.

Meanwhile, employers were becoming reluctant to invoke the Ferguson Act's severe strike penalties. For example, in January 1967 an AFSCME local representing sanitation and snow removal workers in Toledo went on strike. During the strike, the city government "insisted it would enforce Ohio's Ferguson Act . . . [but it later decided] to adopt a 'forgive and forget' attitude."[10] Similarly, in March 1969, when water and sewer workers in the city of Warren, Ohio, struck, the city actually invoked the Ferguson Act and "said it cannot negotiate because the strikers have been fired."[11] After ten days, though, the city settled the strike by signing a new contract, letting the strikers have their jobs back, and indicating that the city would not challenge the strikers' appeal to have the Ferguson Act penalties overturned.[12] Furthermore, there were many cases (beginning in the second half of the 1960s) of strikes by teachers, sanitation workers, and even police and fire fighters where the employer did not even seriously threaten to invoke the Ferguson Act. The Ferguson Act penalties *were* invoked and enforced in a few rare cases, the first of which was a 1967 strike by workers in a county welfare department home,[13] but they generally came to be seen as too harsh to use.

At about the same time, teachers began to press vigorously for bargaining legislation, with the result that a "professional negotiations" bill covering only school employees was almost passed by the 1967–68 legislature. In the beginning of 1967, the Ohio Education Association (OEA) set as its top legislative priority a teacher negotiation bill that provided exclusive recognition to the teacher organization with the largest membership in the district.[14] The Ohio Federation of Teachers (OFT) opposed this bill, preferring recognition by secret ballot election.[15] (The American Federation of Teachers had won the 1965 representation election in Philadelphia[16] and was soon to win the 1967 representation election in Baltimore,[17] despite having a smaller membership in those school systems). Even without OFT support, however, the bill passed the Senate, and its prospects in the House were improved in December 1967 when the OEA raised its dues from $18 per year to $29 (partly to have more money for lobbying).[18] The House passed the bill, after amending it. On the last day of the 1968 legislative session, however, the Senate rejected the House amendments, while the House adhered to them, with the result that the bill died.[19] The chief lobbyist for the OEA claimed that this last minute death in the legislature was the work of Republican Governor James Rhodes, who did not want to have to honor his promise to sign the bill if it reached his desk (Hall interview). (Rhodes was to oppose public sector bargaining legislation more openly a decade later.)

In 1969, the OEA legislative committee recommended that the OEA seek a teacher bargaining law patterned after the NLRA, including the provision for secret ballot representation elections. The OEA's lobbyist recalled that the OEA executive board, still committed to "professional negotiations" rather than "collective bargaining," opposed the recommendation, and a big fight on the OEA convention floor ensued. The convention ultimately accepted the recommendation to seek an NLRA-type statute.

Meanwhile, the Ohio council of AFSCME had also called for public sector bargaining legislation and for the repeal of the Ferguson Act.[20] A bill backed by AFSCME was introduced in the Ohio House of Representatives but made little progress.[21] In 1971, the OEA decided to join forces with AFSCME to seek a bill covering all public employees, rather than one just covering teachers (Hall interview), which strengthened the coalition seeking legislation. The joint OEA-AFSCME bills, however, were killed during the early 1970s by the Republican chairman of the Senate Commerce and Labor Committee (D. Day interview).

The year 1975 brought a major court ruling and an important legislative initiative. The court ruling was the Ohio Supreme Court's decision in *Dayton Classroom Teachers Association v. Dayton Board of Education*[22] that school boards had authority to bargain with their employees and that any contract reached, including a promise to submit grievances to binding arbitration, would be enforceable in court. This ruling established a favorable legal situation for those teacher unions that were strong enough to win recognition. The ruling also reflected the de facto acceptance of public sector bargaining in Ohio during the 1960s and early 1970s, despite the 1947 court ruling in the *Hagerman* case.

Meanwhile, as a result of the 1974 elections, the Republicans lost control of the Ohio Senate, so there was a new chairman of the Senate Commerce and Labor Committee. Ohio's public employee unions united behind S.B. 70, a public sector bargaining bill introduced in 1975 that covered all public employees in Ohio. S.B. 70, a very pro-union bill, passed both houses of the legislature but was vetoed by Governor Rhodes. The House of Representatives failed to override the veto, and the bill died.

In the 1976 elections, the Democrats increased their majority in the Ohio House of Representatives, and Ohio's public employee unions thought that they had gained a "veto-proof" legislature. In 1977, a new bill, S.B. 222, was introduced. S.B. 222 provided a broad scope of bargaining, permitted the agency shop, and legalized most public employee strikes. (Interestingly, both unions and employer organizations preferred the right to strike over binding interest arbitration). Strikes endangering the public health or safety could be enjoined for

up to sixty days, and police and fire fighter strikes were banned outright; but employees enjoined from striking could strike when the sixty-day period expired, and police and fire fighters were given interest arbitration. The bill did make two major concessions to management: police and fire fighter interest arbitration awards could be overturned by a three-fifths vote of the city council, and supervisors were excluded from the coverage of the bargaining law unless the individual public employer agreed to include them. Despite the concessions, though, the bill was more favorable to public employee unions than a large majority of public sector bargaining laws in other states.

The 1977 bill had strong backing. The Ohio AFL-CIO and most public employee unions actively supported it, as did one major management organization: the Ohio Municipal League. The leaders of the league had concluded that some sort of legislation was inevitable; they then decided to support the bargaining bill in order to be able to influence its terms. (For example, they had sought the ability to overturn interest arbitration awards for police and fire fighters, as well as the exclusion of supervisors from coverage.) The other management organizations—the school boards association and the county boards association—opposed the bill, as did the Teamsters (which was not ready to win public sector representation elections) (Coleman interview) and the Fraternal Order of Police (which was dismayed by the concessions won by the Municipal League); but opponents were outnumbered in the legislature by supporters. The bill passed both houses of the legislature and was then vetoed by Governor Rhodes. This time, though, supporters of the bill thought that they had the votes to override the veto. To their surprise and dismay, they did not.

Veto overrides took sixty votes in the House of Representatives, and the Democrats had sixty-two. The few Republicans who had voted for the bill initially, however, were unwilling to override a veto by a Republican governor, and three rural Democrats broke party ranks. Thus, only fifty-nine voted to override, and the bill died.

The vote to override the 1977 veto happened to follow shortly after a particularly bitter strike by fire fighters in Dayton. Not only did buildings burn to the ground during the strike, but there were also allegations that striking fire fighters had committed arson. Legislators reacted negatively to the strike; it may have cost the public employee unions the sixtieth and vital vote to override the veto.

One of the three Democrats voting against the override, Bill Hinig, was a committee chairman; both union and management lobbyists I interviewed claimed that the Democratic Assembly Speaker (who appoints committee chairmen) could have swung Hinig's vote (Brandt, Coleman, D. Day, and Smith interviews). A former legislative staff member, by contrast, argued that if Hinig had voted to override, then a different Democratic legislator would have broken ranks. In any case,

some labor leaders reacted bitterly to Hinig's defection, and they tried to defeat Hinig in the 1978 primary in order to keep all the Democrats in line in the future. The Speaker, however, raised $70,000 for Hinig and dispatched an aide to manage Hinig's campaign. The challenge to Hinig failed, demonstrating the political weakness of labor. The net result, according to two management lobbyists and two former legislative staff members I interviewed, was that the OEA and the Ohio AFL-CIO lost influence in the legislature. The loss was compounded by the 1978 elections, in which Governor Rhodes was reelected and the Republicans gained enough seats in the Senate to block a veto override.

In the 1982 elections, the Democrats won simultaneous control of the governorship and both houses of the legislature for the first time since 1958. The consequence, in 1983 as in 1959, was that a pro-union public sector labor relations bill was enacted into law. The 1983 bill, S.B. 133, contained several provisions that are common in comprehensive public sector labor relations statutes (e.g., representation elections, a duty to bargain with majority representatives, a prohibition of unfair labor practices, and an administrative agency). In addition, S.B. 133 contained some provisions which made it more pro-union than the 1975 bill, the 1977 bill, and most public sector statutes in other states. Among these are:

(1) fact-finding in cases of bargaining impasses, with the fact finder's report becoming binding unless rejected within seven days by either a three-fifths vote of the total membership of the labor organization or a three-fifths vote of the employer's legislative body;
(2) if the fact finder's report is rejected, a broad right to strike for most public employees, and binding interest arbitration (called "conciliation" to help secure passage of the bill) for groups such as police and fire fighters who are prohibited from striking;
(3) a ban on lockouts;
(4) a broad scope of bargaining (comparable to the NLRA, with the addition that "the continuation, modification, or deletion of an existing provision of a collective bargaining agreement" is also a mandatory subject of bargaining);[23]
(5) mandatory dues checkoff and authorization of the agency shop; and
(6) a mandatory grievance procedure, and a declaration that an employer's repeated failure to process grievances in a timely manner is an unfair labor practice.

In view of these pro-union provisions (particularly binding interest arbitration for public safety employees), the Ohio Municipal League

opposed S.B. 133; but this time, labor had the votes even without the Municipal League's support. The bill became law.[24]

2.3 History of Public Sector Bargaining Law in Illinois

In Illinois, as in Ohio, the campaign for public sector bargaining legislation was a long one. In 1945, both houses of the Illinois legislature passed S.B. 427, which authorized public employers to enter into collective bargaining agreements with their employees, provided that these agreements prohibited strikes and lockouts during the term of the contract. The governor, however, vetoed the bill.[25] It would take thirty-eight years before the legislature passed another bill that authorized bargaining for a broad spectrum of public employees.

Despite this setback, unions were able to secure the enactment of several relatively early, but narrow, public sector labor relations statutes, as noted in the Wagner Commission report (1967, D21–22):

1. a 1945 statute authorizing the Chicago Transit Authority to continue the collective bargaining procedures employed when the transit system was privately owned;
2. a 1951 statute authorizing the University Civil Service System to negotiate with organizations representing nonacademic employees on wages and other conditions of employment;
3. a 1951 statute authorizing municipalities to submit wage negotiation impasses with fire fighters to fact-finding;
4. a section in the 1955 State Personnel Code authorizing the State Director of Personnel to negotiate with regard to the pay, hours of work, or other working conditions of employees subject to the State Personnel Code;
5. a 1961 statute authorizing voluntary checkoff of union dues for state employees; and
6. a 1963 statute permitting local governmental agencies to authorize the voluntary checkoff of union dues.

None of these statutes, however, established recognition election procedures, required public employers to bargain, or prohibited public employers from interfering with the unionization of their employees.

The next major legal development came from the courts. When the American Federation of Teachers (AFT) local in Chicago won exclusive recognition from the school board, the National Education Association (NEA) affiliate filed suit. In 1966, a circuit court judge ruled (in *Chicago Division of the Illinois Education Association v. Board of Education of the City of Chicago*) that, even without express statutory authorization, the Chicago school board could grant exclusive bargaining rights to a bargaining agent selected by the teachers. The ruling was affirmed on appeal.[26]

In July 1966, Governor Otto Kerner appointed the Wagner Commission, which was to recommend appropriate policies for public sector labor relations. At the time he appointed the commission, Kerner said that he would try to get a bill enacted provided that the bill did not grant the right to strike. As Milton Derber, vice-chairman of the commission, later pointed out (1968, 552–53), AFSCME was willing to accept a strike ban to get a bargaining statute, but the AFT—which had won gains in Chicago by striking—was not. Moreover, the building trades, afraid that a bargaining statute might threaten their craft jurisdiction, adopted a strong stance against a strike ban as a means of blocking a bill. Despite AFSCME's assertion that labor could not realistically expect Illinois to legalize public employee strikes when no other state had done so (Clark 1969, 171–72), the state AFL-CIO, too, came out against any bill that banned strikes.

The Wagner Commission's report (1967) recommended the enactment of a statute that would declare public sector strikes illegal and explicitly authorize courts to issue antistrike injunctions. They also recommended giving all public employees the right to bargain and establishing an administrative agency to determine units, conduct representation elections, and enforce a prohibition of unfair labor practices; but their proposed statute was doomed to falter on the strike issue. A bill based on the commission's recommendation, S.B. 452, was easily passed by the Senate. Democrats in the House, supported by a minority of the Republicans, amended the bill to delete the strike prohibition. The bill then passed the House. When a conference committee restored the strike prohibition, the House voted down the bill, and the bill died. As Clark (1979, 172) noted: "Despite the explicit backing of Governor Kerner [a Democrat], only two Democrats in the House voted for the bill."

In 1973, another Democratic governor was thwarted in his efforts to get a bargaining bill through the legislature. Daniel Walker, elected governor after making a campaign promise to give public employees the right to bargain, responded to the legislature's defeat of bargaining legislation by unilaterally issuing Executive Order No. 6, which granted bargaining rights to state employees under the jurisdiction of the governor.[27] Although the order did not apply to employees of state universities and employees under the jurisdiction of state officers other than the governor, it still gave bargaining rights to approximately 60,000 Illinois state employees. AFSCME organized most of these employees, thereby gaining additional political clout that would be helpful in future lobbying.

Bargaining bills in the 1970s repeatedly followed a pattern of success in the House, defeat in the Senate. This occurred even after the Democrats took control of the Senate in 1975, chiefly because the Chicago

Democrats resisted legislation. Changes, however, were soon to come in the bargaining policy of Chicago itself.

In 1979, Jane Byrne was elected mayor of Chicago, after making a campaign promise to negotiate collective bargaining agreements with the fire fighters and police. A few months after her election, she appointed a planning board to recommend a collective bargaining policy for city employees.[28] In January 1980, Byrne sent the planning board's proposed bargaining ordinance to the city council. During the same week, the fire fighters union—concerned that Byrne might renege on her campaign promise—threatened to strike if Byrne did not agree to sign a collective bargaining contract.[29] The building trades, however, disliked the planning board's proposal of having only a few large bargaining units (D'Alba interview). In early February 1980, the Chicago Federation of Labor came out against the proposed ordinance.[30] With that, the bargaining ordinance was doomed—it never even came to a vote.

The Chicago fire fighters, however, were not deterred. In February and March, they conducted a twenty-three-day strike, the longest fire fighter strike in U.S. history. The strike, called over the issue of who would be included in the bargaining unit, resulted in an interim agreement on noneconomic issues, with economic issues to be submitted to interest arbitration if the parties could not reach agreement.[31] This interim agreement was the first formal contract that the Chicago fire fighters had ever had, and it was followed a year later by a contract covering the Chicago police.[32]

Meanwhile, the legislature was inching toward a statute providing collective bargaining rights to teachers. In 1973, the legislature enacted a bill (H.B. 1303) requiring school boards to provide dues checkoff to teacher organizations.[33] In 1981, the legislature (despite a Republican majority in the House) went considerably farther, enacting H.B. 701.[34] This latter bill: (1) established a procedure for unit determination and representation elections to select exclusive bargaining representatives, (2) authorized negotiation of binding grievance arbitration, and (3) authorized negotiation of agency shop agreements. Since the Illinois Education Association (IEA)—the chief backer of the bill—stressed its separateness from the rest of the Illinois labor movement, unit determination and the conduct of representation elections were assigned to the regional superintendents of education rather than to a state labor relations agency. H.B. 701, however, stopped short of establishing a duty to bargain, and it did not prohibit unfair labor practices. In some cases, school boards refused to bargain after an H.B. 701 election, such refusal being perfectly legal.

By 1983, the time for comprehensive bargaining legislation had arrived. The legislature voted to approve *two* bargaining bills that estab-

lished a duty to bargain and granted a broad right to strike (except where the public health and safety would be endangered). The first bill,[35] H.B. 1530, covered employees of public schools, colleges, and universities and was backed enthusiastically by the IEA. The IEA's rival, the Illinois Federation of Teachers (IFT), was less enthusiastic but also backed the bill, perhaps because a bill covering only teachers seemed to have better prospects of passage than the more comprehensive legislation that the IFT preferred. The second bill,[36] S.B. 536, was an AFL-CIO bill covering almost all public employees, including educational employees. As originally passed, the two bills differed in their administrative provisions: H.B. 1530 was to be administered by the regional superintendents of education, while S.B. 536 was to be administered by two special labor relations boards—one for Chicago and Cook County employees and the other for employees of other local governments and of the state. (Chicago Mayor Harold Washington had insisted on the separate board for Chicago and Cook County since he did not want gubernatorial appointees to set labor policy for his city.) H.B. 1530 also lacked some of the management rights provisions which had been added to S.B. 536 in order to get it through the legislature.

When the bills reached the governor, Republican Jim Thompson, he invoked an Illinois procedure known as the "amendatory veto." In this procedure, the governor designates changes in a bill that will make the bill acceptable, and if the legislature enacts those changes, the bill becomes law. Despite a lobbying campaign by management groups, such as the Municipal League, the governor left both bills substantially intact. His amendatory veto did, however, change the educational bill (H.B. 1530) to make it more like the comprehensive bill (S.B. 536): H.B. 1530 was to be administered by a special labor relations board, rather than by the regional superintendents of education, and H.B. 1530 was to include management rights provisions similar to those in S.B. 536.

These changes eliminated the public policy rationale for having a separate educational bill, since Governor Thompson could have achieved similar results by vetoing the educational bill and leaving teachers covered by the comprehensive bill. (His amendatory veto of the comprehensive bill had deleted educational employees from coverage). Furthermore, Thompson's action had the disadvantage of simultaneously creating three separate administrative agencies (one for educational employees, one for noneducational employees of Chicago and Cook County, and one for all other public employees), which might eventually issue inconsistent rulings. Nevertheless, a political rationale for Governor Thompson's action remained: the IEA was eager to have a separate bill, for which it could claim credit, and Thompson owed his narrow victory in the 1982 election to IEA support. He repaid the

debt on 23 September 1983, when he signed H.B. 1530 at an IEA meeting before hundreds of cheering IEA members.

Police and fire fighters also ended up with a separate bill, although that was not their original intention. The International Association of Fire Fighters (IAFF) had endorsed the comprehensive bill sponsored by the AFL-CIO (S.B. 536), which banned strikes by public safety employees and substituted binding interest arbitration. The Senate passed the AFL-CIO bill essentially intact, but the House added amendments that the IAFF found unacceptable. Although the House leaders were Democrats friendly to the labor movement, they objected to binding interest arbitration; they therefore amended the bill to allow overrides of arbitration awards by a simple majority of the city council. Furthermore, in order to get Mayor Washington's support for the bill, they added a management rights clause that would have taken away manning rules then present in Chicago's contracts with the fire fighters and police. Finally, the House amended the bill to exclude supervisors, using a broad definition of supervisors that would eliminate many IAFF members from the bargaining unit. Because of these amendments, the IAFF requested that public safety employees be excluded from coverage in the AFL-CIO bill. The House promptly accommodated that request, and the Senate concurred.

In 1985, the IAFF and the (politically less powerful) police unions came back with a new bill, H.B. 1529. This bill, while less desirable from the IAFF point of view than the original 1983 AFL-CIO bill, nevertheless addressed some of the IAFF's concerns about the 1983 House amendments. First, H.B. 1529 required a three-fifths majority of the city council (and not a simple majority) to override an interest arbitration award. Second, it permitted fire fighters (but generally not police) to bargain over manning. Finally, it redefined "supervisor" so that police and fire fighter captains would often remain in the unit—an important change because captains can make up one-third of the fire department work force in a small city.

The IAFF accepted the three-fifths override provision in the 1985 bill for two reasons. First, it might have been impossible to get a bill enacted with fully binding interest arbitration: the House Democratic leaders opposed binding interest arbitration, and Governor Thompson had threatened to veto any bill that required it. Second, the IAFF had simultaneously sponsored a second bill in the 1985 legislature (H.B. 1539) which overturned "little Hatch Acts" that restricted political activities by public safety employees. According to the Illinois state president of the IAFF, H.B. 1539 made the arbitration override provision more palatable by making it easier for fire fighters to campaign against any city council member who voted to override an arbitration award (Walters interview). Although Governor Thompson vetoed H.B.

1539, he did not, according to the Illinois AFL-CIO's chief lobbyist, fight hard to have his veto sustained (Walsh interview). The result was that the legislature overrode his veto on 30 October 1985.[37] With H.B. 1539 enacted, the legislature approved H.B. 1529 the same day.[38]

2.4 Failure and Fulfillment: The Underlying Reasons

What accounts for the long delays in enacting bargaining statutes in Ohio and Illinois? What happened in 1983 that finally brought legislation? The answers for the two states differ slightly, but there are some common elements.

2.4.1 Opposition by Politicians with Political Machines

The first element is political patronage. Some politicians opposed bargaining legislation because the development of collective bargaining would undermine their political machines. Union contracts requiring just cause for discharge would make it harder for officials of one political party to fire workers who had been hired by the opposing party. Similarly, seniority bidding rules would make it harder for officials to use the threat of transfers, job assignments to dirty duty, and assignments to work on holidays to pressure current employees to contribute labor or money to the party in power. Finally, union contracts could also prohibit the assignment of specific patronage duties that had previously been routinely expected. For example, the contract negotiated by the Teamsters with the City of Chicago (*after* the 1983 bargaining law was passed) specified that covered employees need not come out for city parades without pay (Carmell interview).

Ohio has both early and contemporary examples of patronage. A dramatic incident in 1947 demonstrated both the existence of patronage and the potential threat to patronage posed by public employee unionization. According to a monthly publication of the Ohio AFL-CIO:

> One of the events which triggered passage of the Ferguson Act was the firing of 1,000 unclassified highway department workers—all Democrats—in the Chillicothe area. [Republican] Governor Herbert fired them when he took office in January 1947, having defeated Frank J. Lausche. The highway workers . . . thought joining the union [AFSCME] would save their jobs. When union membership didn't protect them from being fired, the highway workers went on strike despite the fact they were no longer state employees. That prompted Ferguson to rewrite New York's Condon-Wadlin Act and introduce it.[39]

According to several of those I interviewed, Ohio still had widespread political patronage even in the 1980s, at least at the county government

level. The lobbyist for Ohio AFSCME said, "When a new county engineer is elected from a different party, he appoints new bulldozer operators" (Morgan interview). A management lobbyist added, "In many Ohio counties, the civil service system is, in practice, limited to the welfare department, which is funded and regulated by the federal government" (Coleman interview). In the view of both of these lobbyists, the desire to defend patronage induced many county officials in Ohio to oppose bargaining legislation.

Patronage was an even more important barrier to bargaining legislation in Illinois because it weakened support for bargaining in what would normally be a state's greatest stronghold of pro-bargaining sentiment: the big-city Democrats. Most of the practitioners I interviewed in Illinois attributed the long delay in enacting a bargaining law there to the opposition of the Chicago/Cook County Democratic machine. As an assistant to Governor Thompson put it, "In the old days, only downstate Democrats supported collective bargaining, and they were too small a group to pass anything by themselves. The Republicans and the Chicago Democrats opposed the bills, so the bills never went anywhere" (Bedgood interview).

The monolithic opposition of the Chicago Democrats to any bargaining legislation began to erode in the late 1970s. In part, this stemmed from two federal court rulings restricting patronage. The first case, *Elrod v. Burns*,[40] arose when a newly elected Democratic sheriff in Cook County fired patronage employees appointed by his Republican predecessor. The U.S. Supreme Court ruling in this case, issued in 1976, said that patronage employees in non-policy-making jobs could not be fired solely because a new political party took office. Three years later, a federal district judge issued a ruling in the second case *Shakman v. Democratic Organization of Cook County*,[41] which prohibited basing hiring or promotion on political work for the party in power. (The *Shakman* ruling did not, however, effectively prevent more subtle measures such as better job assignments for active precinct workers.)

Perhaps more important than these court rulings was the December 1976 death of Mayor Richard Daley, who had opposed bargaining legislation and had been able to marshall a solid bloc of Chicago Democratic legislators to support his position. Jane Byrne, campaigning for mayor as an "outsider" in 1979, said she would support collective bargaining if elected. One union leader noted that she changed her mind after she won because she then saw the Democratic machine as a political asset that she could control and not as a barrier to her election as mayor. But a mayor was soon to come who was more resolute in his support for bargaining and his opposition to patronage.

That mayor was Harold Washington, who defeated Byrne in a racially divisive primary election in February 1983. Washington's black supporters saw the Chicago patronage system as a way of perpetuating the white power structure; if bargaining would help dismantle patronage, so much the better. Moreover, AFSCME had been one of the few organized groups to campaign for Washington in the primary, and AFSCME wanted bargaining rights for city workers. Finally, Harold Washington had a philosophical commitment to public sector bargaining; as a state senator in 1979, he was one of two sponsors of a fairly pro-union bargaining bill.[42] With Washington's electoral victory, a substantial block of Chicago Democrats came out in support of bargaining legislation. Despite the continued opposition of Cook County Commissioner George Dunne and some other machine Democrats, the support of the mayor of Chicago gained enough legislative support for a bargaining bill that such a bill soon passed.

2.4.2 Lack of Incentives for Strong Unions

The second reason for the long delay in enacting bargaining legislation in Ohio and Illinois was that many union leaders felt that they could live with the pre-statute legal situation. Unions that were strong enough to win bargaining rights did well without a statute and hence concluded that it was better to have no bargaining statute at all than to have a bad one. In both states, the politically powerful state education associations had already won collective bargaining contracts for most of their members in the absence of a statute mandating recognition and bargaining. Moreover, courts in both states had ruled that these contracts were legally permissible and, in Ohio at least, enforceable in court. A statute would have allowed the state education associations to win recognition in small, rural districts (since the AFT was unlikely to provide strong competition in such districts), and it would have helped them win agency shop agreements. OEA leaders, however, told me in 1980 that they did not think that these gains would be worth accepting restrictions on the then broad scope of bargaining or the establishment of effective penalties against strikes (Barkley and Burgess interviews). This stance had been taken earlier by the Illinois Federation of Teachers, when it helped kill the 1967 bargaining bill in Illinois because it banned strikes and authorized antistrike injunctions.

In both states, AFSCME had more to gain than the teachers' unions from the enactment of a statute, mainly because many large units in their jurisdiction remained unorganized. (In Illinois the biggest unorganized groups were in municipal and county government, whereas in Ohio they were in state and county government.) AFSCME and Service Employees' International Union (SEIU) officials in Illinois estimated

at the time the 1983 statute was enacted that an additional 80,000 or 90,000 public employees would soon be bargaining.[43] Similarly, one AFSCME official in Ohio estimated in 1980 that AFSCME's membership in Ohio would rise from its then current 35,000 to 125,000 or 150,000 within five years after a statute was enacted (Morgan interview). Nevertheless, in Ohio at least, AFSCME's already established locals representing municipal employees in big cities opposed any legislation that would weaken their existing contracts. In both AFSCME and the teachers' unions, established locals, being strong, wanted a bargaining statute only if it was as favorable to unions as the NLRA. Thus, in 1977, when Governor Rhodes privately told the Speaker of the Ohio House that he would sign a bargaining bill if certain weakening amendments were added, the governor was told that the weakening amendments were not acceptable.

There were, of course, unions that had trouble winning recognition without a statute. One example was the Ohio Association of Public School Employees (OAPSE), which represents nonteaching employees outside the major cities. One OEA official said that OAPSE would be glad to take almost any collective bargaining law. But precisely because OAPSE was a weak union, it was unable to get the legislation it wanted.

In 1983, however, strong unions in both Ohio and Illinois pressed for legislation. Their motivations were somewhat different in each state.

2.4.3 Illinois: Unfavorable Court Decisions Spurring Cooperation among Unions

In Illinois, unions were jolted into action by threats to their established bargaining relationships. The building trades, for example, had long had "handshake agreements" with Chicago's Mayor Daley. Daley's successors, however, did not honor these agreements as faithfully as Daley had, so the building trades began to see the need for real contracts (Gibson interview). An even greater jolt came in December 1981 when the Illinois State Supreme Court issued two decisions affecting virtually all public employee unions. In the first case, *Peters v. Cook County Health and Hospitals Governing Commission*,[44] the court ruled that public employers were free to withdraw recognition from a union at any time. As one union attorney put it, "Repudiation of a bargaining relationship was old news in theory, but this was the first time that management in a heavily Democratic county actually exercised their power to end collective bargaining. It was a surprise that a friend of unions would do this to them" (Carmell interview). In the second case, *Chicago Board of Education v. Chicago Teachers Union*,[45] the court ruled that a contract provision restricting layoffs was unenforceable because layoffs were a management right granted to school boards by the Illinois School Code. The court suggested that some other contract provisions might also be unenforceable on similar grounds.

According to another union attorney, these decisions threatened even established public sector unions, thereby creating a greater sense of urgency about the need for a bargaining statute (D'Alba interview).

Previous bills in Illinois had failed, in part, because of divisions among the unions, some of which disagreed about the terms of the bills and some of which wanted no bill at all. A few months after these two state supreme court rulings, however, the president of the Illinois AFL-CIO began meeting with the leaders of various unions and their attorneys in an effort to reach agreement on a common bill. By October 1982, they were meeting weekly, and they came up with a draft of a bill by December (Gibson interview). All the unions present agreed to refrain from lobbying for rival bills until after the legislature had made a decision on the common bill.

AFSCME, which had the most to gain from a bill, made the key concession in the interunion negotiations: there would be a historical unit provision to recognize the informal bargaining relationships established by the building trades. This protected the building trades from having their members included in larger bargaining units that AFSCME would probably win. In exchange, the building trades (which had previously opposed public sector bargaining bills) sent not only their lobbyists, but also their local union presidents to tell the Illinois Assembly Speaker and the Illinois Senate President that they supported the AFL-CIO bargaining bill (Carmell interview).

The IEA was not part of the group that had agreed upon this common bill, perhaps because the IEA's intense rivalry with the IFT had strained the IEA's relations with the state AFL-CIO. Early in 1983, however, the Illinois Assembly Speaker informed the IEA and the IFT that a bargaining bill was likely to be enacted that session and that the IEA and the IFT would have to work together if they wanted to have any input (Blackshere interview). The IEA insisted on drafting a separate bill for educational employees (even though the AFL-CIO bill covering all public employees gave employees virtually the same rights), but the educational bill nevertheless had terms acceptable to the IFT. This IEA-IFT agreement marked a major departure from the past, when one teacher union invariably opposed a teacher bargaining bill supported by the other. IEA-IFT cooperation collapsed by the summer—when "traditional organized labor groups" urged Governor Thompson to veto the separate bill for education and let teacher bargaining be regulated by the AFL-CIO's bargaining bill[46]—but by then both bills had at least made it through the legislature.

2.4.4 Ohio: Unified Democratic Party Control of State Government

In Ohio, cooperation among unions had not been as great a problem, perhaps because the OEA's dominance in Ohio was more secure than the IEA's dominance in Illinois and because Ohio had fewer unions

that feared the loss of members whom they had represented informally. The key development in Ohio was not an external threat that spurred union cooperation, but rather an unusually favorable political situation that allowed the unions to get what they wanted. The previous problem for unions in Ohio had been that the Democratic party had rarely controlled the state government, and the Republicans generally opposed bargaining legislation. The Democrats won the governorship and majorities in both houses of the state legislature in the 1958 Democratic landslide, but public employee unions had too few members then to get anything more than the dues checkoff statute. Subsequently, more public employees became interested in bargaining, but the political situation became unfavorable. From 1961 to 1982, the Republicans at all times controlled either the governorship or at least one house of the state legislature. Bargaining bills were either killed in Republican-controlled committees or vetoed by Republican Governor Rhodes (who served as governor from 1963 to 1971 and again from 1975 to 1983).

The Democrats made substantial gains in the legislature after the 1971 reapportionment, which was controlled by Democratic officials. (Warren Smith, the chief lobbyist for the Ohio AFL-CIO, estimated that the Democrats gained six to seven seats in the Senate (out of thirty-three) and fifteen seats in the House (out of ninety-nine) as a result of the reapportionment.) The Democrats won a majority in the Ohio House of Representatives in 1973 and a majority in the Ohio Senate in 1975. Unfortunately for the public employee unions, Governor Rhodes was back in office in 1975, and he vetoed their bargaining bills. The Democrats, however, controlled the reapportionment commission again in 1981, and they received a further boost from the economic depression in Ohio in 1982. When the 1982 elections brought simultaneous Democratic control of the governorship and both houses of the legislature, Ohio's public employee unions were finally able to get the strongly pro-union bargaining statute upon which they insisted—even though not a single Republican voted for the bill.

In Illinois, lack of Democratic party control had not been the key barrier to bargaining legislation prior to 1983: Republican Governor Thompson was willing to sign bargaining legislation, and the Democrats controlled both houses of the Illinois legislature from 1975 to 1980. Nevertheless, no bargaining bill acceptable to the unions would have emerged from a legislature like the one in office during 1981–82, when several bills obnoxious to labor (a right-to-work bill, a bill to cut unemployment insurance and workers' compensation benefits, and a bill to require one-year advance notice of strikes) were reported out of committee in the Republican-controlled House. The restoration of Democratic control of the House in the 1982 elections (partly due to unusually active campaign efforts by Illinois unions) made bargaining

legislation possible again—once the unions presented a united front and the mayor of Chicago no longer opposed a bill.

2.5. Impact of the 1983 Statutes on the Extent of Bargaining Coverage and Nonwage Bargaining Outcomes

Once the Ohio and Illinois bargaining statutes were enacted, what was their impact on public sector labor relations? Although the statutes may have affected many variables, the analysis here will focus on only two of them: the extent of bargaining coverage and the nonwage outcomes of bargaining.

Quantitative measurement of the impact of the Ohio law is difficult because detailed data for the years before the law was enacted are not available. Thus, there is no baseline against which to measure any changes. A legislative study commission did, however, conduct a survey of local public employers and local public employee organizations in Ohio during the fall of 1984, half a year after the Ohio law took effect. Responses were obtained from about half of the employers and about a fourth of the unions. Although the low response rates mean that these data cannot be used to make inferences about the *proportion* of all public employers or unions that would have given a particular answer, the data nevertheless provide a (probably fairly low) lower bound estimate on the *absolute number* of employers or unions that would have given a particular answer. Results for selected questions are shown in table 2.1.

As table 2.1 indicates, the enactment of the 1983 Ohio bargaining law (S.B. 133) did not overcome all resistance to unions among public employers. Although 54 employers said that they recognized a union after S.B. 133 was passed but before it took effect, 80 said that they adopted solicitation rules (presumably intended to thwart union organizing). Interestingly, 43 of the 80 employers adopting solicitation rules were county governments, jurisdictions where Ohio's public sector unions had been especially weak before the law. When asked what proportion of their employees had to belong to the union before they would grant a fair-share (agency shop) clause, 434 employers (over half the sample) responded that they were ideologically opposed to a fair-share clause. Contracts were common at the time of the survey (514 employers had them), but these contracts were in many cases fairly weak. For example, 153 of the employers responding to the survey said that their contracts did not have grievance arbitration. Although the unions that did not have grievance arbitration (because they had either a weak contract or no contract at all) generally intended to bargain for it, employers not having grievance arbitration generally had no such intention.

Table 2.1 Employer and Union Reactions to the 1983 Ohio Bargaining Law[a]

	Employers	Unions
1. As a result of the passage of Senate Bill 133, but prior to 1 April 1984, what changes in the workplace did you institute? (Please check all appropriate responses.)		
a) none	442	NA
b) work rule changes	62	NA
c) job description changes	114	NA
d) supervisor identification	125	NA
e) recognition of union	54	NA
f) adoption of solicitation rules	80	NA
g) offer to renegotiate existing contract	39	NA
h) management training in labor relations	180	NA
i) other	33	NA
2. Do you have a union membership percentage threshold as a determining factor before granting a fair-share [agency shop] clause?		
a) 50 – 59 percent	63	NA
b) over 70 percent	40	NA
c) ideologically opposed to a fair-share clause	434	NA
d) no response	245	NA
3. Do you have a collective bargaining agreement in your unit or units?		
a) yes	514	193
b) no	253	71
c) no response	15	5
4. Does your agreement contain a grievance procedure culminating in final and binding arbitration?		
a) yes	306	146
b) no	153	49
c) no response	323	74
5. Do you intend to bargain for a grievance procedure culminating in final and binding arbitration?		
a) yes	43	95
b) no	214	10
c) no response	525	164

[a]Tabulated from data collected during the fall of 1984 by the Public Employment Advisory and Counseling Effort (PEACE) Commission, a study commission created by the Ohio legislature to review the implementation of S.B. 133. The PEACE Commission sent questionnaires to approximately 1,675 local public employers in Ohio and 1,200 local employee organizations; 782 employers and 269 employee organizations responded. The data in the table indicate the absolute number of employers or unions giving each response.

I supplemented the data obtained from this survey with information obtained from interviews with practitioners. The most interesting finding from these interviews is that some public employers in Ohio have aggressively resisted the unionization of their employees, even after the legislature enacted a bargaining law. This represents a radical break with the previous pattern established by public employers in states that enacted bargaining laws during the 1960s and 1970s. In that era, public employers (unlike their private sector counterparts) did not oppose the unionization of their employees once the legislature declared that it was the policy of the state to protect the right of employees to organize and bargain. Instead, management anti-unionism in the public sector was manifested in disputes about the scope of bargaining. These latter disputes are not absent from Ohio: for example, the City of Cincinnati and the Fraternal Order of Police had a fierce dispute about whether residency requirements were bargainable.[47] What is new is employer campaigning against union representation.

According to one attorney I interviewed, labor relations consulting firms began, shortly before S.B. 133 was enacted, to market their services by conducting seminars explaining why employers would find it advantageous to remain nonunion. Furthermore, the Association of County Commissioners and the Ohio Municipal League, dismayed that the bill was enacted, also allegedly promoted the idea of staying nonunion. A number of local public employers responded by hiring consulting firms to help them defeat unions in representation elections. Most notable was the case of the welfare department in Hamilton County (the county in which Cincinnati is located). This department, several people told me, paid a consulting firm over a quarter of a million dollars to help fight a union-organizing drive during 1983 and 1984, plus substantial additional sums for the legal battles that have followed.

The history of this organizing drive is described in the report of the State Employment Relations Board (SERB) hearing officer on an unfair labor practice charge that the union eventually filed.[48] According to the report, the Hamilton County Welfare Department did not bargain with AFSCME prior to S.B. 133, but it did provide dues checkoff. A substantial number of the employees had signed the dues deduction authorizations, providing a strong base for the organizing drive that AFSCME began in the late spring of 1983 (once it was clear that S.B. 133 would be enacted). The director of the welfare department responded by holding meetings with the managers and first-line supervisors to enlist their support for a campaign to oppose unionization. In the fall of 1983, the welfare department hired a labor relations consulting firm to provide assistance in resisting unionization.

Shortly after hiring the consulting firm, the SERB hearing officer's report continued, the department prohibited the distribution of union

literature or authorization cards on the department's premises, even by department employees, and required prior approval before department employees could post notices on the departmental bulletin boards. This policy was relaxed in March 1984 (just before S.B. 133 took effect) to permit solicitation by employees during nonworking time; but solicitation was banned during working time and nonemployees were prohibited from entering the building. The department continued, however, to give unlimited access to the outside consultants, who campaigned among the employees during the employees' working time.

Meanwhile, supervisors used the regular weekly meetings with their subordinates, at which attendance was required, to pass out the employer's representation campaign literature and to discuss election issues. During the two days immediately before the representation election, the department held a series of meetings for all employees at which one of the outside consultants expressed the employer's views on union representation. The notice of the meeting, signed by the director of the welfare department, stated, "If you cannot make the assigned meeting, please arrange to attend one of the other sessions," which created an impression among some employees that attendance was required.[49]

On 11 July 1984, the representation election was held. AFSCME lost by the narrowest of margins: 355 votes for no representation vs. 354 for AFSCME. AFSCME filed an unfair labor practice charge and sought a new election. On 6 February 1986, the SERB hearing officer agreed with the union position on the grounds that the employer's solicitation-distribution rules were unduly restrictive and that the meetings during which supervisors and the outside consultant campaigned against the union involved illegal "captive audience" speeches. The three SERB board members unanimously adopted the hearing officer's recommendation on 12 May 1986, directing that a new election take place; but the Hamilton County Welfare Department challenged the SERB ruling in court.

On 7 July 1986, the Hamilton County Welfare Department's appeal of the SERB ruling was dismissed in county court. Two days later, the AFSCME local chapter president (an employee of the welfare department) requested that a union announcement, printed on 8-½" by 11" paper, be posted on welfare department bulletin boards. (See p. 63.) The welfare department personnel director, however, sent the local chapter president a memo the following day denying the request to post the notice.[50] Thus, the battle over union representation in the Hamilton County Welfare Department continues. Some experienced practitioners familiar with both this case and private sector labor relations told me that Hamilton County's resistance to unionization was as intense as that of most employers in the private sector. The irony

VOTE VOTE VOTE

CSEA-AFSCME WELCO CHAPTER

WISHES TO ANNOUNCE THAT A NEW ELECTION ORDERED BY S.E.R.B. MAY 12, 1986, IS ABOUT TO HAPPEN!! DATE OF ELECTION WILL BE PUBLISHED SHORTLY!!

VOTE VOTE VOTE

of the Hamilton County battle is that most of the welfare department's labor costs are reimbursed by the state and federal governments, so that unionization poses less of a threat to the welfare department management than it does to most employers.

Despite this and other cases of management resistance, unions have made considerable gains in winning representation rights in Ohio. The biggest change has come in state government. Before S.B. 133, there had been some "members only" contracts in state government. Indeed, Ohio State University had such contracts with two separate unions for a single classification of employees. These "members only" contracts were, however, generally much more limited in scope than a conventional contract negotiated by an exclusive bargaining agent, if only to avoid inconsistency in the personnel policies applying to members and nonmembers. Exclusive representation contracts, meanwhile, were almost nonexistent in state government in Ohio (the exceptions were one in a home for old sailors and soldiers, and one in a home for the blind).

In the aftermath of S.B. 133, however, AFSCME and other unions very quickly won exclusive bargaining rights for all state employees covered by the new law. The SERB divided the covered state employees into fourteen statewide bargaining units on 25 March 1985. Within five weeks, unions gathered enough employee signatures to petition for representation elections in thirteen of the fourteen units, including two where unions might have been expected to be weak (clerical workers and administrative professionals). The fourteenth unit, state engineers and scientists, was another one that might not be expected to be a union stronghold, but a representation petition for that unit was filed within four months of the SERB unit determination ruling.[51] Unions prevailed over the "no representation" option in all fourteen elections, with the bulk of the state employees going to AFSCME. The

speed of these union victories and the inclusion among them of the units for clerical workers, administrative professionals, and engineers and scientists contrasts with the experience of other states, where unionization of the blue-collar employees and the negotiation of one or more blue-collar contracts typically preceded any organizing among clerical workers or professionals. Clearly, there was a pent-up demand for union representation among state employees in Ohio. It took a bargaining statute for that demand to be satisfied.

In Illinois, quantitative assessment of the impact of the 1983 bargaining legislation is more easily done than it is in Ohio, primarily because the Illinois State Board of Education has been collecting data on labor agreements in the public schools since the early 1970s. The state board obtains copies of all signed agreements between school boards and teacher unions and records the presence or absence of various contract provisions. The board summarizes these data in annual pamphlets and also produces data tapes with detailed information for each school district. Copies of these tapes were obtained for this study.

Table 2.2 presents descriptive statistics on the prevalence of signed written agreements between Illinois public school boards and teacher organizations. Several trends stand out:

(1) Agreements were much more common in large school districts (those with large enrollments and, hence, a large number of teachers) than in small school districts. For example, in 1979–80, signed written agreements were in effect in only 15 percent of the districts with enrollments under 500 (which typically had thirty or fewer teachers) but in over 90 percent of the districts with enrollments over 3,000 (which typically had 150 or more teachers.

(2) The percentage of smaller districts with agreements rose only slightly during the four years from 1979–80 to 1983–84.

(3) The percentage of smaller districts with agreements jumped dramatically in 1984–85, the first school year after the 1983 Illinois bargaining law took effect. For example, the fraction of districts having contracts in the under 500 enrollment stratum grew from 15 percent in 1979–80 to only 19 percent in 1983–84, but it then jumped to 56 percent in 1984–85.

Clearly, these data suggest that employer size and legislation both influence whether teachers in a given district are covered by an agreement.

More rigorous evidence of the importance of these factors is presented in tables 2.3 and 2.4, which show logistic regressions aimed at explaining the presence of a substantive contract in Illinois school districts. (Some of the agreements included in table 2.2 were "procedural agreements" in which the school board merely recognized the teacher organization and agreed to negotiate with it, rather than formal

Table 2.2 **Percent of Illinois School Districts with Negotiated Agreements, 1979–80 to 1986–87[a]**

	District Enrollment					
Year	Under 500	500–999	1,000–2,999	3,000–5,999	6,000–11,999	12,000 and Above
1979–80	15%	35%	69%	93%	91%	100%
1980–81	15%	40%	71%	95%	90%	92%[b]
1981–82	19%	42%	74%	95%	90%	100%
1982–83	18%	46%	76%	94%	89%	92%[b]
1983–84	19%	48%	78%	96%	87%	100%
1984–85	56%	83%	93%	97%	100%	100%
1985–86	61%	87%	96%	97%	100%	100%

[a]Data taken from Department of Planning, Research, and Evaluation, Illinois State Board of Education, *Illinois Teacher Salary Study* [title varies], annual editions for 1979–80 to 1985–86.

[b]The changes in the percentage with contracts in the largest enrollment stratum represent the Peoria School District. In 1979–80 and again in 1981–82, the Peoria School District was reported as having a signed written agreement with a coordinating council consisting of representatives of the NEA, the AFT, and independent teachers. In 1980–81, the Peoria School District was reported as developing its salary schedules by meetings between board representatives and representatives of a teacher organization recognized through board policy. In 1982–83, the Peoria salary schedule was reported developed on the basis of meetings between the school board and the superintendent. From 1983–84 onward, the Peoria board was reported as having a signed written agreement with the AFT.

collective bargaining contracts.) The regressions are based on Illinois State Board of Education data for individual school districts, to which I have added county data on the vote for Reagan in the 1984 presidential election. In both tables, the dependent variable was coded as 1 if the school district had a substantive contract, 0 otherwise.

Table 2.3 presents a cross-section estimate of the probability of the presence of a collective bargaining contract in each school district in the fall of 1982 (before the teacher bargaining law was passed). The results were generally as expected. Thus, districts with a small number of teachers (particularly those with 20 or fewer) were less likely to have contracts, while districts with more than 500 teachers were more likely to have contracts. (This confirms the results in table 2.2 even when there are controls for other variables that are highly correlated with district size, such as whether it is an elementary district, a secondary district, or a unit district.) Rural districts were less likely to have contracts, as were districts located outside Cook County. The only surprise was that the probability of a contract was higher in districts located in counties which voted heavily for Reagan in 1984—a result that probably arose because of the high zero-order correlation between the variables *COOKCOUNTY* and *REAGANVOTE* (-0.56). In any case, the coefficient for *REAGANVOTE* was statistically insignificant.

Table 2.4 presents an estimate of the probability of a change from nonunion status to union status. Specifically, the regression in table 2.4 estimates the probability that districts without collective bargaining contracts in the prior year would have collective bargaining contracts in the current year. Data are included for three years: the fall of 1982 (before the bargaining law was passed), the fall of 1983 (after it was passed but before it took effect), and the fall of 1984 (after it had taken effect). The regression includes dummy variables for year, which are proxies for the impact of the law on districts that previously did not have contracts.

The results in table 2.4 differ somewhat from those in table 2.3. In table 2.4, unlike table 2.3, the size of the district and its rural or urban status has a statistically insignificant effect on the probability that the district would sign its first contract. This may suggest that the enactment of bargaining legislation in 1983 reduced the degree to which small unit sizes and location in rural areas posed a barrier to unionization. Meanwhile, the coefficient for *COOKCOUNTY,* which is positive and significant in table 2.3, is negative and significant in table 2.4. Perhaps the districts in Cook County that had not signed contracts prior to 1982 were hard-core nonunion districts for some reasons not controlled for in my model (e.g., enlightened personnel practices that keep a district's employees content). The negative coefficient for *COOKCOUNTY* in

Table 2.3 **Determinants of Contract Coverage in Illinois Public Schools Prior to the 1983 Bargaining Law**[a]

Explanatory Variables	*Dependent Variable*: Probability of a collective bargaining contract in this school district in the fall of 1982		
	Coefficient	(Standard Error)	Impact at Mean of Dependent Variable[b]
Characteristics of the District			
Dummy variables for the number of teachers in the district:[c]			
20 or fewer (*DIST20*)	−1.358***	(0.173)	−0.330
21 to 50 (*DIST50*)	−0.896***	(0.131)	−0.218
51 to 100 (*DIST100*)	−0.343**	(0.132)	−0.083
500 or more (*DIST500*)	0.499	(0.568)	0.121
Dummy variables for the student population served by the district:[d]			
elementary (*ELEMDIST*)	0.026	(0.114)	0.006
secondary (*SECONDIST*)	0.163	(0.135)	0.040
Dummy variables for the urban or rural status of the district:[e]			
central city (*CENTRALCITY*)	0.416	(0.441)	0.101
suburb (*SUBURB*)	0.434***	(0.120)	0.106
independent city (*SMALLCITY*)	0.357**	(0.123)	0.087
Characteristics of the County			
Dummy variable for districts in Cook County (*COOKCOUNTY*)	0.488**	(0.167)	0.119
Fraction of the county vote for President in 1984 for Reagan (*REAGANVOTE*)	0.615	(1.094)	0.150
Intercept	−0.588	(0.873)	−0.143
−2*LLR	1004		

[a]Logistic regressions based on data obtained from the Illnois State Board of Education on contract provisions in Illinois public school districts. There is one observation for the fall of 1982 for each school district. There are 1,013 observations, 424 of which represent districts with collective bargaining contracts. The dependent variable is coded 1 for districts with substantive contracts, 0 otherwise.

[b]This is the partial derivative of the logit equation with respect to the explanatory variable, evaluated at the mean of the dependent variable. It equals $b*p*(1-p)$, where b is the coefficient of the explanatory variable and p is the proportion of 1's for the dependent variable (42 percent).

[c]The omitted category represents districts with 101 to 499 teachers.

[d]The omitted category represents unit districts which have both elementary and secondary schools.

[e]The omitted category represents rural school districts.

**Significant at the 1 percent level (two-tailed test).

***Significant at the 0.1 percent level (two-tailed test).

Table 2.4 **The Impact of the 1983 Bargaining Law on the Spread of Bargaining in Illinois Public Schools[a]**

Explanatory Variables	*Dependent Variable*: Probability that a district that did not have a collective bargaining contract the previous fall will have one this fall (fall 1982, 1983, 1984)		
	Coefficient	(Standard Error)	Impact at Mean of Dependent Variable[b]
Bargaining Law			
Dummy variables for the year:			
1984–85 (*LAWEFFECTYR*)	2.353***	(0.203)	0.321
1983–84 (*LAWPASSYR*)	0.449	(0.232)	0.061
Characteristics of the District			
Dummy variables for the number of teachers in the district:[c]			
20 or fewer (*DIST20*)	−0.434	(0.241)	−0.059
21 to 50 (*DIST50*)	0.107	(0.220)	0.015
51 to 100 (*DIST100*)	0.175	(0.236)	0.024
500 or more (*DIST500*)	1.285	(1.204)	0.175
Dummy variables for the student population served by the district:[d]			
elementary (*ELEMDIST*)	−0.286*	(0.120)	−0.039
secondary (*SECONDIST*)	0.212	(0.156)	0.029
Dummy variables for the urban or rural status of the district:[e]			
central city (*CENTRALCITY*)	0.679	(0.986)	0.092
suburb (*SUBURB*)	0.226	(0.141)	0.031
independent city (*SMALLCITY*)	0.293	(0.165)	0.040
Characteristics of the County			
Dummy variables for districts in Cook County (*COOKCOUNTY*)	−0.720**	(0.270)	−0.098
Fraction of the county vote for President in 1984 for Reagan (*REAGANVOTE*)	1.351	(1.179)	0.184
Intercept	−0.706	(1.090)	−0.096
−2*LLR		884	

[a]Logistic regressions based on data obtained from the Illinois State Board of Education on contract provisions in Illinois public school districts. The data consist of observations for each of three years (1982–83, 1983–84, and 1984–85), with one observation for each school district that did not have a collective bargaining contract in the prior year. Thus, all the observations represent school districts that either did not have contracts in the given year or negotiated their first contract in that year. There are a total of 1,727 observations, 281 of which were for first contracts. The dependent variable is coded 1 for districts with substantive contracts, 0 otherwise.

[b]This is the partial derivative of the logit equation with respect to the explanatory variable, evaluated at the mean of the dependent variable. See note b to table 2.3.

[c]The omitted category represents districts with 101 to 499 teachers.

[d]The omitted category represents unit districts which have both elementary and secondary schools.

[e]The omitted category represents rural school districts.

*Significant at the 5 percent level (two-tailed test).

**Significant at the 1 percent level (two-tailed test).

***Significant at the 0.1 percent level (two-tailed test).

table 2.4 could thus reflect the impact of these omitted variables, which are the true reasons for the absence of bargaining.

The major finding from the regression in table 2.4 is that, even controlling for characteristics of the county and characteristics of the school district that might influence whether the district would have a teacher bargaining contract, the 1983 bargaining law brought a notable increase in the subsequent probability of contract coverage. The knowledge that the law would soon be in effect may have brought a small increase in bargaining coverage, as indicated by the positive coefficient (significant at the 5.3 percent level) for the variable *LAWPASSYR* (a dummy variable for school years 1983–84). Much more dramatically, the increase came once the bargaining law took effect, as indicated by the positive and statistically highly significant coefficient for the variable *LAWEFFECTYR* (a dummy variable for school year 1984–85). Moreover, the magnitude of the coefficient for *LAWEFFECTYR* was large—larger than that for any of the other explanatory variables. If the other variables were at their average values, then the probability that a school district would have a contract was 40 percentage points higher in 1984–85 than in 1982–83.[52] By contrast, the nonlegal variable with the greatest impact was *DIST500* (a dummy variable for districts with 500 or more teachers), and its effect on the probability of a contract was less than 20 percentage points. Similarly, the "impact" column in table 2.4 (which reports the partial derivative of the logit function with respect to the explanatory variable) indicates that the law taking effect increased the probability of a contract by 32 percentage points, whereas *DIST500* had an impact of only 17.5 percentage points.

In short, one can be confident that the association between legislation and subsequent increases in contract coverage is real, and it is large enough to be socially important. These results (based on district level data for one state) confirm those reported in Saltzman's (1985) study, which used aggregate statewide data for all fifty states. Obviously, this confirmation with a different data set strengthens the finding.

Does this association between bargaining legislation and subsequent increases in contract coverage demonstrate a causal relationship? In the 1960s and early 1970s, one could argue that bargaining laws were consequences of the same social forces that led to unionization and not an independent cause. By 1983, however, the social forces generating the tidal wave of public employee unionism had receded. As the legislative histories given earlier in this chapter make clear, the Illinois and Ohio bargaining laws were enacted in 1983 not because of a surge in public employee militancy, but because of exogenous political events, such as the breakdown of the Chicago Democratic machine. Moreover, as table 2.2 indicates, in the four years before the Illinois law, there was only a minor increase in the number of Illinois school districts with contracts. It is therefore reasonable to conclude that the

substantial increase in bargaining coverage after the 1983 laws was a consequence of the laws per se. Certainly that was the view of the union lobbyists I interviewed, who gave as one rationale for their pursuit of legislation that it would help them win representation rights for additional employees. Thus, as a cause of the growth of bargaining coverage, public sector bargaining laws really matter.

Besides contributing to the spread of bargaining, bargaining legislation could also affect bargaining outcomes. There are two reasons why one would expect that the 1983 teacher law in Illinois should lead to outcomes more favorable to unions. First, the teacher law required that all contracts have binding grievance arbitration. (This was one of the few respects in which the amended version of H.B. 1530 differed from the comprehensive law, S.B. 536, which merely authorized grievance arbitration.) Second, it explicitly legalized teacher strikes, which should have helped unions win favorable contract terms on all issues, even in cases where the union merely threatens to strike.

A different sample of the same data set used to analyze the spread of bargaining was used to analyze the impact of legislation on contract terms. The contract terms sample was based on one observation per contract. Thus, districts with no collective bargaining contracts during the period from 1982–83 to 1984–85 were not included in the sample. On the other hand, districts with two or more contracts during this period were represented by multiple observations. The contract data set used is unusual in having information on contract expiration dates, which made it possible to distinguish records for renegotiated contracts from those for continuations of multiyear contracts.

Table 2.5 uses this sample of the data set to estimate how much of an effect the law actually had on contract terms. The table presents logistic regressions indicating the probability that various contract terms will be present in those cases where there are contracts. These contract terms, each corresponding to a separate regression equation, are: (a) grievance arbitration, (b) fair share, (c) class size limits, and (d) seniority for reductions in force (RIFs).

The results in table 2.5 indicate that the 1983 bargaining law did, indeed, lead to contracts more favorable to unions. The law had its greatest impact on the probability that contracts would include grievance arbitration, which might be expected since the law specifically required the inclusion of this contract provision. In quantitative terms, the probability that contracts included grievance arbitration was 41 percentage points higher in 1984–85 than in 1982–83 (assuming that the other variables are at their average values). The law also increased the probability of fair-share clauses and the use of seniority as the basis for determining who gets laid off during a RIF, although it had no significant impact on the probability of class size limits.

Table 2.5 **The Impact of the 1983 Bargaining Law on Contract Language in Illinois Public School Bargaining[a]**

	Probability That the Contract Will Contain:			
	Grievance Arbitration		Fair Share	
Explanatory Variables	Coefficient	(Standard Error)	Coefficient	(Standard Error)
Bargaining Law				
Dummy variables for the year:				
1984–85 (*LAWEFFECTYR*)	2.223***	(0.149)	1.569***	(0.197)
1983–84 (*LAWPASSYR*)	0.115	(0.089)	1.001***	(0.212)
Characteristics of the Bargaining Relationship				
Dummy variable for representation by the AFT (*AFT*)	−0.173	(0.116)	0.060	(0.136)
Dummy variable for first contracts (*FIRSTK*)	0.261	(0.155)	−0.144	(0.135)
Characteristics of the District				
Dummy variables for the number of teachers in the district:[b]				
20 or fewer (*DIST20*)	−0.908***	(0.192)	−0.269	(0.249)
21 to 50 (*DIST50*)	−0.584***	(0.120)	−0.108	(0.158)
51 to 100 (*DIST100*)	−0.368***	(0.102)	0.108	(0.136)
500 or more (*DIST500*)	0.179	(0.290)	0.855**	(0.307)
Dummy variables for the student population served by the district:[c]				
elementary (*ELEMDIST*)	0.038	(0.117)	−0.155	(0.156)
secondary (*SECONDIST*)	−0.067	(0.130)	0.052	(0.162)
Dummy variables for the urban or rural status of the district:[d]				
central city (*CENTRALCITY*)	0.992**	(0.337)	0.193	(0.400)
suburb (*SUBURB*)	0.419**	(0.141)	0.507**	(0.171)
independent city (*SMALLCITY*)	0.429**	(0.137)	0.105	(0.174)

(*continued*)

Table 2.5 (continued)

Explanatory Variables	Probability That the Contract Will Contain: Grievance Arbitration Coefficient	(Standard Error)	Fair Share Coefficient	(Standard Error)
Characteristics of the County				
Dummy variable for districts in Cook County (*COOKCOUNTY*)	0.590***	(0.146)	0.336	(0.194)
Fraction of the county vote for President in 1984 for Reagan (*REAGANVOTE*)	−2.009	(1.163)	−2.070	(1.533)
Intercept	−1.012	(0.761)	2.190*	(0.971)
−2*LLR	1045		698	

	Class Size Limits Coefficient	(Standard Error)	Seniority for RIFs Coefficient	(Standard Error)
Bargaining Law				
Dummy variables for the year:				
1984–85 (*LAWEFFECTYR*)	0.048	(0.081)	0.284***	(0.077)
1983–84 (*LAWPASSYR*)	−0.009	(0.089)	0.103	(0.084)
Characteristics of the Bargaining Relationship				
Dummy variable for representation by the AFT (*AFT*)	0.078	(0.098)	0.127	(0.091)
Dummy variable for first contracts (*FIRSTK*)	−0.447***	(0.118)	−0.106	(0.087)
Characteristics of the District				
Dummy variables for the number of teachers in the district:[b]				
20 or fewer (*DIST20*)	−1.517***	(0.205)	−0.826***	(0.135)
21 to 50 (*DIST50*)	−0.881***	(0.104)	−0.741***	(0.096)

51 to 100 (*DIST100*)	−0.537***	(0.086)	−0.453***	(0.089)
500 or more (*DIST500*)	0.344	(0.261)	0.518	(0.387)
Dummy variables for the student population served by the district:[c]				
elementary (*ELEMDIST*)	0.125	(0.101)	0.018	(0.088)
secondary (*SECONDIST*)	0.086	(0.111)	0.214*	(0.100)
Dummy variables for the urban or rural status of the district:[d]				
central city (*CENTRALCITY*)	0.307	(0.289)	0.869	(0.530)
suburb (*SUBURB*)	−0.142	(0.117)	−0.071	(0.098)
independent city (*SMALLCITY*)	−0.089	(0.109)	0.269**	(0.096)
Characteristics of the County				
Dummy variable for districts in Cook County (*COOKCOUNTY*)	−0.028	(0.127)	0.066	(0.117)
Fraction of the county vote for President in 1984 for Reagan (*REAGANVOTE*)	3.218**	(1.009)	0.585	(0.861)
Intercept	0.358	(0.667)	−1.410	(0.785)
−2*LLR	1377		1653	

[a]Logistic regressions based on data obtained from the Illinois State Board of Education on contract provisions in Illinois public school districts. There is one observation for each contract reported during 1982–83, 1983–84, or 1984–85 (a total of 1,329). Districts with three contracts during this period thus have three observations, while districts with no contracts are excluded from the regressions. The dependent variable is coded as 1 for contracts where the contract provision is present, 0 otherwise. The number of contracts containing each provision is as follows: grievance arbitration, 828 (out of 1,329); fair share (a public sector term for the agency shop), 129; class size limits, 412; seniority for RIFs, 743.

[b]The omitted category represents districts with 101 to 499 teachers.

[c]The omitted category represents unit districts which have both elementary and secondary schools.

[d]The omitted category represents rural school districts.

*Significant at the 5 percent level (two-tailed test).

**Significant at the 1 percent level (two-tailed test).

***Significant at the 0.1 percent level (two-tailed test).

The one case where a significant effect appeared during the 1983–84 year was fair share (as indicated by the positive and significant coefficient for *LAWPASSYR*), but this effect is subject to two possible interpretations. It might be that knowledge that the 1983 bill would soon go into effect led to the spread of fair-share clauses at the beginning of the 1983–84 school year. (Most school district contracts are signed and ratified shortly after the teachers return from summer vacation. The 1983 law, originally passed by the legislature in June 1983 and signed by the governor in September, went into effect on 1 January 1984.) Alternatively, the spread of fair-share clauses during 1983–84 could reflect the delayed impact of H.B. 701, the bill passed in 1981 that specifically authorized school districts to agree to fair-share clauses. In either case, legislation appears to be an important determinant of bargaining outcomes.

Of the other explanatory variables in table 2.5, perhaps the most interesting is *AFT*, a dummy variable indicating that the teachers in that school district were represented by the AFT rather than the NEA or an independent organization. (The independent organizations were rare, so that the comparison is primarily between the AFT and the NEA.) Although the coefficients for *AFT* were positive in three out of four cases, they were all statistically insignificant. This suggests that, controlling for other determinants of bargaining outcomes, teachers' choice between the AFT and the NEA had little effect on the contract language they won (at least concerning grievance arbitration, fair share, class size limits, and seniority for RIFs). The existence of rival unionism may have substantially affected bargaining outcomes (by spurring *both* the AFT and the NEA to be more aggressive), but these regressions tend to undermine claims that one teacher union is systematically more successful than the other.

2.6 Conclusions

The findings in this study suggest that major political changes—the overthrow of the Chicago Democratic machine in Illinois, the 1983 Democratic triumph in Ohio—may be the prerequisite for the enactment of new public sector bargaining laws in the 1980s. If such political changes occur, then some states in the South or Rocky Mountains might give their employees the right to bargain, or the federal government might enact a bargaining statute for state and local public employees similar to the ones proposed in the mid-1970s. Such legislation would likely bring substantial growth in the extent of bargaining coverage, even though resistance by public employers to unionization may become more common; and (depending on the terms of the legislation) it might also lead to contracts more favorable to unions. As noted at

the beginning of this chapter, however, Ohio and Illinois had been "exceptional" cases prior to the enactment of their laws in 1983. Labor's prospects today of winning similar pro-union bargaining legislation in the remaining states that lack it are probably not nearly so bright.

Notes

1. See, however, the quantitative studies by Kochan (1973) and Saltzman (1985), and the case study of bargaining legislation in Wisconsin by Saltzman (1986).
2. 147 Ohio St. 313, 71 N.E. 2d 246 (1974).
3. *Ohio Revised Code* §§ 4117.01–.05.
4. H.B. 92 (1947 *Ohio House Journal* 120, 1303) and S.B. 114 (1947 *Ohio Senate Journal* 116). S.B. 114, incidentally, was introduced by Howard Metzenbaum, who subsequently became a United States Senator.
5. H.B. 5, passage by the House reported in 1947 *Ohio House Journal* 206–7.
6. H.B. 36, passage by the House reported in 1947 *Ohio House Journal* 207–9.
7. 1947 *Ohio Senate Journal* 1086–87.
8. S.B. 209, enacted as § 1321.321, later renumbered as § 9.41 of the Ohio Revised Code (128 *Laws of Ohio* 260 [1959].
9. Ohio Legislative Service Commission, "Public Employee Labor Relations," Staff Research Report no. 96, Columbus, Ohio, February 1968, 28.
10. *Government Employee Relations Report* (hereafter cited as *GERR*), no. 176, 23 January 1967, B-8.
11. *GERR*, no. 286, 3 March 1969, B-8.
12. *GERR*, no. 287, 10 March 1969, B-7.
13. *GERR*, no. 221, 4 December 1967, B-7.
14. *GERR*, no. 175, 16 January 1967, B-7. The bill was numbered S.B. 30.
15. *GERR*, no. 179, 13 February 1967, B-5.
16. *GERR*, no. 74, 8 February 1965, B-2.
17. *GERR*, no. 196, 12 June 1967, B-6; *GERR*, no. 197, 19 June 1967, B-8.
18. *GERR*, no. 222, 11 December 1967, B-8.
19. 1968 *Ohio House Journal* 2219.
20. *GERR*, no. 215, 23 October 1967, B-7.
21. *GERR*, no. 329, 29 December 1969, B-8.
22. 41 Ohio St. 2d 127, 323 N.E. 2d 714 (1975).
23. *Ohio Revised Code* § 4117.08(A).
24. 1983 *Ohio Laws* 140; *Ohio Revised Code* § 4117.
25. *Legislative Synopsis and Digest* (Springfield, Ill.: State of Illinois, 30 June 1945), 176.
26. 127 Ill. App. 3d 328, 468 N.E. 2d 1268 (1966).
27. *GERR*, no. 522, 24 September 1973, B-5 to B-7.
28. *GERR*, no. 820, 23 July 1979, 16.
29. *GERR*, no. 846, 28 January 1980, 20.
30. *GERR*, no. 848, 11 February 1980, 20–21.
31. *GERR*, no. 853, 17 March 1980, 27–28.

32. *GERR*, no. 920, 13 July 1981, 23–24.
33. 1973 *Laws of Illinois, 78th General Assembly* 1:632–33.
34. 1981 *Laws of Illinois, 81st General Assembly* 1:789–93.
35. Enacted as chapter 48, paragraphs 1701–21, *Ill. Stats. Anno.*
36. Enacted as chapter 48, paragraphs 1601–27, *Ill. Stats. Anno.*
37. 1985 *Laws of Illinois, 84th General Assembly* 3:6517.
38. 1985 *Laws of Illinois, 84th General Assembly* 3:7335.
39. *Focus* 11, no. 6 (May 1977):4.
40. 427 U.S. 347 (1976).
41. 481 F. Supp. 315 (1979).
42. S.B. 1387, introduced 11 April 1979. A copy of the bill is available in the Illinois State Library in Springfield.
43. *GERR* 21, no. 1032, 3 October 1983, 1955.
44. 430 N.E. 2d 1128 (1981).
45. 430 N.E. 2d 1111 (1981).
46. *GERR* 21, no. 1032, 3 October 1983, 1954.
47. Paul Furiga, "Cincinnati Using Bargaining Law in Police Strike," *Cincinnati Enquirer*, 6 January 1985, A-1 and A-16.
48. "Hearing Officer's Recommended Determination," *Ohio Civil Service Employees Association (OCSEA) Local 11 v. Hamilton County Welfare Department*, Ohio State Employment Relations Board, Case no. 84-RC-04-0080, 6 February 1986.
49. Ibid., 9.
50. "Motion to Expedite," *OCSEA Local 11 v. Hamilton County Department of Human Services*, Ohio State Employment Relations Board, filed 21 July 1986.
51. *GERR* 24, no. 1145, 6 January 1986, 11–12.
52. Since the logit model is nonlinear, the impact on the dependent variable of a change in one independent variable depends on the values of the other independent variables.

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Note: Some interviews listed below were on a "not for attribution" basis and, hence, are not cited in the text.

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Comment

William T. Dickens

I liked this paper when it was presented at the conference and had very few comments then. Since the author has dealt with nearly all of my complaints, I like the paper even more now and have less to say. My remaining disagreements are very minor.

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First, I still think the paper undersells the results a bit. The paper shows conclusively that bargaining laws can affect the level of union density, at least in the public sector in Ohio and Illinois. A debate has been raging for many years over the question of whether laws matter or just reflect the sentiments of the populations of the countries or states in which they are enacted. We know that the Wagner Act was followed by a great surge in union density, and it has been observed that Canada and the United States—two fairly similar countries with very different labor laws—have very different union densities. Canada, where it is easier to organize, has the higher density. In both cases very respected scholars have argued that it is not the laws which make the difference but public opinion. This question is of immediate importance since there is also a debate over whether changing the labor law in this country could reverse the fortune of the union movement.

As the paper shows, it is hard to argue that the changes in the laws in these two states reflect big shifts in the popularity of unions among the people in the state. The climate in the states is unchanged. In both cases the timing of the laws seems to be due to some chance occurrence in state politics unrelated to the question of public sector bargaining. Nonetheless the changes in the laws seem to be followed by big changes in union density. The only other paper that gets this close to being able to assess causation is Ellwood and Fine's (1983) study[1] of the effects of right-to-work laws. They too find that laws matter. Of course this does not mean that all provisions of state and federal labor laws are of similar importance, but it does add weight to the arguments of those who claim that changing the law could reverse the decline in union density.

My major remaining critical comment pertains to the results presented in table 2.4. The coefficients and standard errors are estimated under the assumption that the errors for each district in each year are independent. This is clearly false, since unobserved factors which make it likely that a district would change in one year also make it likely to change in the next. The most likely effect of the failure of this assumption is to bias the standard errors downward. Thus the results should be interpreted with some caution. Nonetheless, I do not believe that the bias could be big enough for the major finding, the large and significant coefficient on the dummy variable for the year the law took effect, to not hold up. The means in table 2.1 are enough to convince me. If the author wanted to do more he could have estimated the logit model in table 2.3 for each year and compared the intercepts. This would have avoided the error components problem that results from grouping the data as he has.

1. David Ellwood and Glenn Fine, "Impact of right-to-work laws on union organizing," National Bureau of Economic Research Working Paper no. 1116, May 1983.

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