

Organizing to Organize:

The case of a successful long-haul campaign for collective bargaining rights

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Abstract

After nearly four decades of campaigning, faculty and academic staff union members across the University of Wisconsin (UW) System won the right to bargain collectively in June 2009 when the Governor signed legislation that modified state labor law. In this paper, I present historical and interdisciplinary analyses of the organizational structures that were critical to the campaign's success. While the case study should be interesting for academics across disciplines, the Wisconsin experience carries generalizable lessons for union organizing in any sector of the economy. In addition to cataloguing the tens of legislative attempts that faculty and academic staff unionists undertook to win collective bargaining rights in Wisconsin, my paper juxtaposes the legislative goals with environmental variables such as which political party controlled state government and how many faculty and academic staff were committed to the campaign at any given time as regular dues-paying members. It is clear in this light that persistence paid dividends for the campaign and that leverage created by the Local unions in relation to their state and national affiliates was necessary for the campaign's longevity and success. Against this backdrop, I also consider the degree to which tensions between a Local union and its larger affiliates might variably impact union organizing across different international unions. The case study has relevance for discussions of minority or non-majority unions as well as strategic decisions about how unions pursue level playing fields for organizing new members.

Keywords: open source unions, minority unions, nonmajority unions, collective bargaining rights, neutrality agreements, labor law

Recent and historical debates concerning changes to federal labor law illustrate the legislation's importance to national unions and business organizations. Since federal legislation establishes the ground rules for organizing and for labor-management relations, it is clear that the stakes are high for both sides. In fact, the high stakes that have been placed on this subject presumably helps to account for the failure of either side to win meaningful changes subsequent to 1947's adoption of the Taft-Hartley Act (Freeman and Rogers 2006:185).

In contrast with federal labor law, each of the 50 states have jurisdiction to establish the ground rules for organizing and for labor-management relations for their public sector employees and employers. Because fewer people are impacted and because the employers do not have the same pressures to earn a profit, discussions about change to each state's labor laws involve lower stakes and, consequently, can be relatively easier to change. One policy benefit of these differences is that states are able to serve as "laboratories" (Brandeis 1932) for experiments or innovations that people in charge of federal labor laws are unwilling or unable to test.

As the most recent attempt to amend federal labor law, the Employee Free Choice Act illustrates the challenges that advocates for national legislation can face even in cases where many of the Act's important provisions have already been adopted by several states (e.g., Bruno 2009). The Act also demonstrates, however, the fact that people do place varying degrees of "stakes" on winning changes to the law. For example, while advocates for workplace rights agree that the Act would address some of the weaknesses of current labor regulations (e.g., Bronfenbrenner 2009, Friedman 2007, Martinez Ortega 2007), some have raised concerns that the Act might not serve all of the purposes that are necessary to create a level playing field for workers to organize and gain fair treatment (e.g., Adams 2007, Nissen 2009). In fact, this concern about the exaggeration of legislative impact – at the federal or state level – is similar to the conclusion that Bronfenbrenner and Juravich reached in their review of public sector organizing campaigns when they

acknowledged that “it is not simply passage and adoption of comprehensive collective bargaining legislation that creates a receptive climate for organizing” (1995:122). Instead, Bronfenbrenner and Juravich are clear that the relationship between laws and political strength is a two-way street when they specify that “the social and political climate necessary to get such legislation passed, in and of itself, creates an environment more conducive to organizing” (1995:122).

In this paper, I highlight the case of a successful long-haul campaign by faculty and academic staff unionists employed by the University of Wisconsin (UW) System to win collective bargaining enabling legislation. While the campaign focused on winning a change to state labor law, there are generalizable lessons concerning the way in which the union sustained its efforts and maintained its energy over approximately four decades. Beyond reviewing the chronology of legislative efforts since 1971, I focus on implications of the case study for (1) debates concerning the value of “open source,” “minority,” or “non-majority” unions (e.g., Freeman and Rogers 2002; Nissen 2001; Summers 1990) in which collective bargaining is not necessarily practiced and (2) strategic consideration of the processes through which unions pursue neutrality agreements for organizing new bargaining units (e.g., Eaton and Kriesky 2001, 2009; Eaton and Rubenstein 2006; Hurd 2008; Lund and Wright 2003; Mills 2001; Stewart 2006).

An Overview of the Wisconsin Campaign

With a history that includes figures such as “Fighting Bob” La Follette (Unger 2008) along with policy innovations such as unemployment insurance and workers’ compensation (Holter 1999:3), Wisconsin has often been recognized as “a Progressive showcase for social legislation” (Gilbert 2000:167). With specific regard to its approach to labor relations, Wisconsin is broadly considered to have led the founding of Industrial Relations in the United States (Kaufman 2003) as well as the development of state labor laws. Schneider, for example, celebrates “Wisconsin’s

pioneering law” (1988:196) that was adopted in 1962 to create a labor board for the state’s public sector that was empowered to administer representation elections for municipal employees and to otherwise resolve labor-management impasses. Likewise, Wollett et al. (1993) establish on page 1 of their textbook that Wisconsin had “the only state statute of significance covering public sector employees” in 1962. More recently, Grodin et al. report that “Wisconsin is usually given credit... for being the first jurisdiction to enact legislation granting organizational, representation, and bargaining rights to municipal employees” (2004:81).

Against this backdrop and subsequent extensions of Wisconsin’s public sector laws, it is not surprising that people who work for the state’s agencies as accountants, forensic scientists, engineers and attorneys – to name a few professions – have formed unions that have the right and responsibility of bargaining collectively. Similarly, graduate employees at UW-Madison and UW-Milwaukee have successfully negotiated collective bargaining agreements (e.g., Czitrom 2010) just as faculty who work as part of the state’s two-year technical college campuses have been bargaining collectively since the 1960s (Breihan 2010).

In contrast with these groups but consistent with Lund et al.’s (2008) observation that “comprehensive” public sector bargaining frameworks do not necessarily provide rights to all public sector employees, the largest set of employees in the state who lacked collective bargaining rights – until June 2009 – was the population of approximately 18,000 faculty and academic staff employed by the UW System’s 15 institutions. In the sections that follow, I will catalog the tens of efforts to win legislative change by drawing on a review of legislative records starting in 1971. The history of those legislative efforts will be complemented, however, by a review of publications and related correspondence maintained by the American Federation of Teachers (AFT), the University’s administration, and the state historical archives. Finally, the review will draw partly on interviews and observations gleaned through my experiences as field staff assigned to the campaign by AFT’s

state federation starting in 2002. While the case study follows a model of rich ethnographic detail (e.g., Albright 2008; Gabriel 2008; Kamper, 2006), the paper concludes with interdisciplinary analyses of inter-organizational relationships (e.g., Durrenberger 2007) to highlight lessons that might be generalized to other environments.

<insert Table 1 here>

To help readers keep track, Table 1 catalogs the long list of legislative attempts – starting in 1971 – that would have extended collective bargaining rights to faculty and academic staff employed by the UW System. Table 1 also identifies which political party controlled the Governor’s office, State Senate, and State Assembly across the time period according to biennial election cycles. Likewise, for years where the data were available, the Table specifies the number of faculty and academic staff union members, the number of faculty and academic staff unionists elected to state federation leadership roles, the number of field staff assigned to the campaign for bargaining rights, and the status of positions held by student organizations, by competing labor organizations, and by the Faculty Senate at UW-Madison. Throughout this paper, I will elaborate on the nature and importance of these variables and will present the legislative history according to decade since the union’s strategic shifts tend to correspond with the ten-year windows.

The 1970s: Madison’s Place in a Statewide System

Starting with the 1970s, the subject of collective bargaining rights for faculty and academic staff was frequently discussed; however, a more foundational policy question was also being answered that carried deep implications for the Union’s campaign. Namely, the “University of

Wisconsin” – with its main campus in Madison and additional campuses in Green Bay, Milwaukee, and Parkside – was merged with the “Wisconsin State University” system in 1971 to form a singular UW System. In the wake of this merger, the new System included (1) a “flagship” research campus in Madison, (2) an urban doctoral campus in Milwaukee, and (3) a statewide Extension “campus” with offices across the state along with (4) a set of 11 comprehensive or masters-granting institutions (e.g., UW-Eau Claire) as well as (5) a set of more than 10 additional two-year campuses, which are now known as “UW Colleges.”

<insert Table 2 here>

As Table 2 indicates, the UW System is very uneven when measured by the number of faculty and academic staff (e.g., research technicians) across campuses. UW-Madison, for example, has tended to employ approximately 20 times the number of faculty as UW-Superior. More systematically, Table 2 helps to illustrate that between 47% and 54% of all faculty and staff employed by the UW System have worked for UW-Madison over the past 40 years.

The uniqueness of Madison in comparison with the rest of the System was always a variable for all parties to acknowledge during the campaign for collective bargaining rights. Beyond being the largest campus with the highest paid faculty, UW-Madison has also occupied a central symbolic role across the state. Newspapers, for example, regularly refer to UW-Madison as “the UW.” Likewise, when sports teams from the non-Madison campuses compete against Madison, it is routine for the opposing team to recognize Madison as “UW” or “Wisconsin.”

Within the union, the merger of the original UW with the Wisconsin State University system is important partly because the AFT initiated their attempts to organize the Madison campus before it merged into the institution now known as the UW System. Consequently, AFT Local 223 was

chartered on October 20, 1930 (Feinsinger and Roe 1971:234) and continues through today even though its original jurisdiction has changed in the wake of the System's creation and even as a Local formed in 1933 for UW-Extension (Local 253) and a Local formed in 1919 for faculty in Milwaukee (Local 79) eventually failed to thrive (Golodner 2010).

Outside of internal union politics, the UW System's merger was also used as one of the Administration's shields against collective bargaining rights. During a meeting of the System's Board of Regents on May 11, 1973, for example, a position paper authored by "Central and Campus Administrations" concluded that "our advice at this time [about the impact of bargaining rights] would be without the benefit of operational experience under the terms of the new merger statute."

The 1970s: TAUWF's National Affiliation

Just as AFT Local 223 was organized in the 1930s as a union of faculty employed by the University in Madison, the faculty employed by the Wisconsin State University campuses started forming their own association beginning in 1915. Originally called the Association of Wisconsin State University Faculties (AWSUF), the group changed its name to The Association of University of Wisconsin Faculties (TAUWF) after the systems merged. Unlike Local 223, however, TAUWF and its predecessor had not been affiliated with any national or international labor union until action in the mid-1970s. Presumably because of traditions that were established in advance of the System's creation, TAUWF never undertook any sustained action to organize the Madison campus just as Local 223, which has tended to have small but active memberships between 20 and 200, never pursued serious organizing of the whole UW System.

As reflected in Table 1, TAUWF counted nearly 2,700 faculty as members in the early 1970s and the organization was undoubtedly very attractive for national unions to welcome.

Beyond its organization of thousands of faculty, the association was vibrant enough to sponsor several annual scholarship and business meetings that brought together faculty from campuses across the state for multiple days at a time. Indeed, at one of these events in 1962, TAUWF hosted US Supreme Court Justice William Douglas as its keynote speaker.

In spite of several *ad hoc* collaborations with the National Education Association (NEA) during the early 1970s, TAUWF's "Committee of Five" published a report in 1975 that reviewed the benefits and risks of proposals for affiliation that were pending with the NEA, the AFT, the American Association of University Professors (AAUP), and the American Federation of State, County, and Municipal Employees (AFSCME). While it is remarkable that there were four formal proposals for the Committee to consider, they voted 4-1 to recommend affiliation with AFT. Interestingly, AFSCME was clearly the Committee's second preference and there was a slight edge for AAUP's proposal compared with the NEA.

To help account for the split from NEA and the decision to choose AFT, it is worth highlighting the Committee's lists of "advantages" and "disadvantages" for affiliating with the two major teachers' organizations. About NEA, the Committee lamented that they have "the most expensive dues," "will give TAUWF only a very minor voice in state affairs," and "made an indefinite financial commitment toward TAUWF affiliation." About AFT, the Committee's primary rationale was that AFT "has considerable financial wherewithal and a clear, definite commitment to provide the necessary funds to consummate affiliation and the first collective bargaining contract." It is also true that TAUWF's move into AFT gave it 40% of the state federation's voting strength at the time (Wisconsin Federation of Teachers, 1975) whereas they would have held significantly smaller stakes in any of the other national union's state bodies.

TAUWF officially affiliated as Local 3535 on January 1, 1976. A TAUWF newsletter proclaiming the news quoted the Local's President stating: "You can be sure that TAUWF will be

back with its bill in the next session, and with the support of the AFT and the AFL-CIO will secure, at last, the means to have a positive voice for faculty in making the decisions critical to their professional lives” (Culver 1976). Indeed, AFT’s national office must have shared this level of confidence if only because the original affiliation agreement states that there will be significant quarterly grants to the Local “until the signing of the first collective bargaining agreement.”

Part of the reason for this optimism relied on the fact that each of Wisconsin’s neighboring states adopted enabling legislation for faculty and professional staff during the mid-1970s (NCSCBHEP 1988). Further, as Table 1 indicates, unions expected opportunities for growth with Democrats in control of the state’s legislative chambers and the Governor’s office. Even outside observers such as Milwaukee’s largest daily newspaper published a headline in 1975 that read “Faculty Union at UW Appears Likely” with the first sentence specifying that “collective bargaining... is likely to become a reality soon in the University of Wisconsin System” (Olive 1975).

The 1970s: “WEAC Wars”

As Murphy (1992) reviews, Wisconsin was no exception to jurisdictional contests between the NEA and AFT for winning the right to represent teachers across the state. In fact, AFT staff who worked in the state during the 1970s describe a long series of contested elections and raids whereby one or the other organization was seeking to win affiliation from individual bargaining units as the “WEAC Wars,” in reference to the NEA’s state affiliate – the Wisconsin Education Association Council (WEAC).

In the midst of these conflicts between the AFT and NEA, the state’s NEA affiliate – with support from NEA’s national office – did not sit idly as AFT affiliates approached a victory that

might have positioned them well for winning as many 12,000 or more new members at the time. On the contrary, NEA organized varying numbers of faculty on several of the campuses (e.g., UW-Green Bay) and presented petitions for voluntary recognition to the Board of Regents from majorities of the faculty at UW-Oshkosh and UW-Green Bay (Krahn 1975). While the petitions for voluntary recognition were rejected, NEA attempted to “split the difference” by seeking legislation that would permit campus-by-campus bargaining units rather than larger multi-campus units that AFT endorsed. While a campus-by-campus approach would have made it easier for NEA to organize some of the campuses since AFT already had a strong presence across the whole system, some in AFT viewed NEA’s alternative legislation as a divisive distraction to ensure that AFT did not have an opportunity to multiply its size by several times.

Legislatively, Table 1 indicates that there were three competing versions introduced for collective bargaining rights during the 1977-78 session – with Democrats in control of all three parts of the state government (Governor, Senate, and Assembly). Those versions were respectively initiated by legislators on behalf of AFT, NEA, and the Board of Regents.

As the conflict between AFT and NEA continued and as the legislative efforts failed, each organization invested nontrivial amounts of energy attempting to place blame on the other. For example, WEAC published multiple newsletters for distribution through its campus contacts that attacked TAUWF for its decision to join AFT and itemized “how ‘democracy’ works in the AFT” with its “one man governance,” explicitly and critically referring to the AFT President Al Shanker (UWRFEA 1977). Similarly, though with less animosity attacking the NEA, TAUWF charged that one of several reasons for the failure to win bargaining rights involved “tactics of delay and destroy adopted by [NEA] whose leaders in Madison clearly did not want a bill” (TAUWF 1978).

During the same period that there were conflicts between the NEA and AFT/AFL-CIO, it is also noteworthy that the National Right to Work Committee, based in Arlington, Virginia published

an “Actiongram” to its members in the state on October 15, 1979 to attack collective bargaining enabling legislation as a “scheme,” “power grab,” and “take over” of “Wisconsin higher education” (Larson 1979).

The 1980s: “Madison Liberals”

Into the 1980s, there was still optimism within the Union that enabling legislation could be advanced; however, direct conflicts with the NEA were overshadowed by direct conflicts with Madison-area legislators opposed to collective bargaining rights. For example, during the 1981-82 legislative session, AB 452 / SB 636 was set for consideration by the full Assembly before losing, 49-46, on a floor vote. The Assembly’s Majority Leader at the time – later appointed by President Clinton as Ambassador to Norway – told reporters that “It cannot be proved that this bill would improve the quality of higher education in this state” (Fanlund 1982).

In response to these divisions among the Democrats, the state AFL-CIO President told reporters that “I don’t think we need fair-weather friends. . . . If they don’t support us at a time when we need them, *c’est la guerre*” (Shively 1982). As part of a failed effort to win a new floor vote, the Wisconsin AFL-CIO (1982) also published a newsletter whose top story identified the “sixteen Democrats” who voted “WRONG” (*original emphasis*) along with the four Republicans and 42 Democrats who voted to extend bargaining rights.

During the 1983-84 legislative session – with Democrats back in control of state government, the Senate bill (SB 174) reached a vote on the floor that lost 17-to-14 with several Madison-area liberals, including future three-term US Senator Russ Feingold, voting against the bill. In the Assembly, there were three public hearings on the same proposal (AB 282) but no floor vote.

During the 1985-86 legislative session – with Democrats still in control of state government, AB 229 – with 15 amendments from the floor – passed 66-to-32 in the State Assembly and 24-to-8 in the State Senate. Despite this apparent passage by both legislative chambers, the legislation failed to receive a final procedural vote by the Assembly, which continued to be led by the Madison-area legislator who was later appointed as Clinton’s Ambassador to Norway.

With all of these close votes, it should not be surprising that there was some public infighting among Democratic politicians during the years when their party was in charge. For example, a Democratic state representative from La Crosse publicly criticized a peer in Madison for advancing an “elitist” argument against enabling legislation (Pommer 1983). Likewise, even the Governor Tony Earl (D) publicly chastised the UW-Madison Faculty Senate during one of their meetings for their “obsession” against collective bargaining rights (Knoche 1984). In fact, Earl lamented that he saw “more passion, more energy” from Madison faculty opposed to collective bargaining rights than any other topic (e.g., increased support for public higher education). Despite this heavy rhetoric and despite his personal support for enabling legislation, Earl was not known to have actively pressed any legislators to follow suit (Friederich 1984). Likewise, the publicly-stated concerns of UW-Madison faculty members that collective bargaining rights would undermine their unique “flagship” status in the UW System continued to persist.

While AFT’s state federation provided at least one field staff member exclusively for Locals 3535 and 223 ever since TAUWF affiliated in 1976, Table 1 reflects the fact that AFT’s national body invested at least one of their field staff members for important periods during the late 1970s and early 1980s when there were clear opportunities to win this significant change to state labor law.

Interestingly, with the replacement of Democratic Governor Earl by Republican Tommy Thompson through an election in November 1986, the 1987-88 legislative session included AB 24 –

the 24th bill introduced that session – as yet another effort to extend bargaining rights to faculty and academic staff employed across the UW System. For AB 24, the legislation passed both houses of the Democratically-controlled legislature by margins of 66-32 in the Assembly and 23-9 in the Senate; however, a motion to override Governor Thompson’s veto failed by one vote (65-34) after one of the initial Republican supporters switched his vote.

The 1980s: Focus on Academic Staff

Conflict between the AFT and NEA took a twist during the 1980s because the NEA started in 1981 with legislation (AB 510 / SB 395) that would have extended collective bargaining rights to academic staff – and not faculty. While the AFT eventually accepted this move during the 1990s, the NEA strategy was initially seen as an unacceptable and unnecessary compromise to leave faculty on the sidelines.

In 1981, for example, when AFT was still campaigning for bargaining rights for faculty and academic staff – with a Republican as Governor – WEAC’s bid for legislation that would focus exclusively on academic staff continued the conflicts that boiled in the late 1970s. Newspaper accounts of the conflict acknowledged claims that there was “an out-and-out turf battle” underway between AFT and NEA (Browne 1981). In fact, TAUWF’s director charged that WEAC’s bill for academic staff was a “stalking horse to kill our bill” for academic staff and faculty (Browne 1981).

To take a step back, it is important to note that Table 2 demonstrates that the UW System employs thousands of people as “academic staff.” In fact, Wisconsin’s statutory definition of “faculty” limits the title to tenure-track positions and, consequently, part of the growth of “academic staff” positions is explained by its inclusion of the growing numbers of non-tenure-track faculty positions.

While legislative efforts to gain bargaining rights for academic staff did win support in one house of the legislature during the 1989-90 session and won support of both legislative chambers during the 1991-92 biennium before being vetoed by the Governor, it is noteworthy that academic staff were extended statutorily-defined “shared governance” rights during the mid-1980s, undoubtedly in response to the pursuit of bargaining rights by the AFT and NEA.

Internal to the Union, it is similarly interesting that in 1987, TAUWF/Local 3535 changed its name to TAUWP so that “Faculty” was replaced by the more inclusive “Professionals.” And, 1987 is the first instance in which there is a record of AFT Local 223 using the name “United Faculty and Academic Staff,” after earlier merging with a previously-independent organization named “United Faculty” in 1974.

The 1980s: Focus on Employer’s Governing Body

After Tommy Thompson’s election as Governor, the Union continued its efforts to flip the Board of Regents from opponent to supporter of collective bargaining rights. Previously, during the 1974-75 period, for example, the Regents publicly and actively engaged the question of collective bargaining rights for faculty and academic staff – and even published a detailed, 54-page report on the subject that was later packaged as a bound volume by the Association of Governing Boards of Universities and Colleges. The Regents were never, however, aligned with either AFT or NEA on the specifics of a mutually-agreeable framework for collective bargaining rights.

Throughout the 1980s, the topic again took center stage. For example, the UW System’s Board welcomed presentations in 1986 from the President of AFT’s Local of faculty employed by the City University of New York as well as the Director of a national higher education labor-management center (Muzik 1986). Following this discussion, the Regents voted 8-6 to continue

opposing the right to decide; however, Local 3535's newsletter trumpeted that "the vote was closer than ever before" (Muzik 1986).

As regular participants in policy discussions relating to faculty and academic staff interests, officers of Local 3535, in particular, maintained a consistent and visible presence throughout the duration of this case study vis-à-vis the Board of Regents and the top-ranked officers of UW System Administration. In fact, a review of Local 3535 and 223 newsletters over the past four decades indicates a consistent focus on operating as a public advocate for faculty and academic staff in as many ways as possible outside of the collective bargaining relationship. Beyond organizing pressure on the Administration and Regents to seek greater public support, Locals 3535 and 223 also maintained strong programs of representing individual faculty and academic staff in their appeals of unwelcome treatment. With AFT's active support, Locals 3535 and 223 also invested significant sums into litigation that challenged discriminatory employment practices that impacted everyone in the potential bargaining units – not simply people who were dues-paying members.

The 1990s: Plodding and Planning

Early in 1990, the campaign for bargaining rights took a novel logistical path when the Assembly's Majority Leader included a proposal for enabling legislation as part of a budget-repair bill (SB 542) that was adopted in the middle of a biennial budget. While Governor Thompson vetoed this provision out of the budget, it opened a new avenue for winning legislative change that is less subject to some of the procedural wranglings that blocked previous legislative efforts.

In 1992, in a familiar story, SB 262 was approved by both houses of the State Legislature but then vetoed by the Governor. The interesting twist to this development is that Thompson reportedly rationalized his veto "because academic staff have 'shared governance' rights similar to

faculty” (McDade 1992). The irony of Thompson’s position in 1992 is that academic staff had gained shared-governance rights as an intermediate response to earlier efforts to win enabling legislation; and so, it is clear that Thompson and others intended statutorily-established shared governance to be a compromise.

While additional legislative efforts were initiated throughout other parts of the 1990s, the bills did not reach any remarkable endpoints with Republicans typically in control of most or all of the state’s three wings of government. During this time, however, Locals 3535 and 223 collaborated with each other to develop a broader strategic approach that would engage constituencies (e.g., students) that had not traditionally been sought for support. The Locals also prioritized agenda topics such as campaigning for a state budget that supported public higher education and other public goods.

In the latter 1990s, it is noteworthy that AFT 223’s President won election to the state federation’s executive board and – because of his background as a union leader in other states – he posed a credible threat to the re-election of the incumbent state federation President. Uncoincidentally, this new internal tension between the Local and the state federation yielded a doubling (i.e., from one to two) of the field staff provided for organizing the UW System. Along with the sizable voting bloc that Local 3535 regularly presented at state federation conventions, it is clear that these kinds of tensions were critical to winning renewed attention and support for the campaign for bargaining rights.

Outside of the AFT, an important internal development that occurred in the 1990s is that the state affiliates of AFT and NEA signed an “interaction agreement” that entailed commitments to keep peace between the two organizations. As part of this agreement, in fact, NEA ceded jurisdiction for future organizing within the UW System to the AFT amid preliminary discussions of a merger between the two state affiliates.

The 2000s: Comprehensive Campaign For Bargaining Rights

Into the 2000s with Republicans still in control of most of state government, Locals 3535 and 223 focused on winning support from Faculty Senates across the UW System and they gained favorable resolutions in support of collective bargaining rights from each of the campuses outside of Madison between March 2001 and March 2002. Madison's Senate, instead, relied upon the input of a highly-regarded law professor who itemized seven specific concerns that she – and, later, the Senate – identified as necessary conditions for supporting enabling legislation.

It is remarkable that during the 2003-04 legislative session, there was no legislative attempt to win bargaining rights. It was also the first period since the late 1970s when there was a net increase in the number of faculty and academic staff members of AFT across the state. In fact, during this period, there were concerted efforts to draft legislation that incorporated each of the Madison Senate's concerns and there were expanded efforts on the campuses to organize faculty and academic staff on the basis of locally-important "issues" such as wages, health insurance benefits, retirement benefits, and job security, to name a few. As an illustration of the growing resources that were being committed during this period, AFT's state federation published a series of news releases on topics such as salary as well as the selection of a new UW System President, the proposed elimination of an outreach program at UW-Platteville, a case alleging age discrimination at UW-Oshkosh, and AFT-sponsored litigation relating to tenure.

After there was time for new, Madison-acceptable legislation to be drafted and after there was an intentional hiatus on the legislative front, members of Locals 3535 and 223 started organizing on the campuses to learn more about the "past, present, and prospects" for bargaining rights and to build pressure on their local legislators to win support for the effort. These efforts

gained a fresh focus during the 2005-06 legislation when members pressured the Republican State Senate Majority Leader to introduce SB 452 and testify on its behalf. In fact, at the January 2006 hearing for this bill, the State Senate's Republican Leader argued that "if we are going to bring the best and brightest here and keep them, they need to know that not only are the salaries good but that they are going to be treated thoughtfully and carefully" (Foley 2006). At the same hearing, the Governor's Office of State Employment Relations testified in support of bargaining rights, citing Wisconsin's "fine tradition" of supporting the rights of public sector employees (Timberlake 2006). Additionally, the United Council of UW Students presented a copy of a resolution they adopted in December 2005 that supported collective bargaining rights and the UW System Administration formally registered a position of neutrality on the legislation. Just as notably, the UW-Madison Faculty Senate did not register opposition to the legislation for the first time in history.

While SB 452 did not make it past a committee hearing, it provided a new legitimacy for the campaign partly because there were Republican legislators – responding to union-organized pressure from their constituents – at the front of the legislation. The committee hearing, for example, attracted more than 20 members of Locals 3535 and 223 from across the state to spend a day in the Capitol and five members who lived in the districts of the Senate committee members testified. In addition to being featured on the front page of AFT's statewide membership newsletter, the campaign also gained attention from AFT's national higher education periodical.

During the 2007-08 legislative session, the Democratic Governor used the "bully pulpit" of the biennial state budget to include a proposal for collective bargaining rights. And while this proposal was ultimately removed from the budget by legislators as a "policy item," the proposal provided the Union with additional legitimacy and a new target for organizing more support. For example, it was through this target that the Union gained editorial support from newspapers across the state including the largest daily outlet, the *Milwaukee Journal Sentinel* (2007). While the

Milwaukee newspaper is not regarded as especially ideological, they opened their editorial with the observation that “the right to organize is a basic one that, having already been allowed even for police officers, cannot be reasonably denied to select other public employees in Wisconsin.” In other words, the pressure campaign helped people wonder “why don’t faculty and staff have this right” rather than “why should they have this right?”

Within months of the 2007 budget resolution that left out bargaining rights, legislation (SB 353) was introduced that provided yet another set of opportunities for the Union to build pressure and expose those who were blocking the legislation’s passage. For example, a press conference to launch SB 353 was organized in December 2007 on the UW-Green Bay campus and drew approximately 100 people along with news reporters. Later in December 2007, a State Senate Committee took testimony at a public hearing at UW-Eau Claire where 21 faculty, staff, and students from eight different UW campuses advocated for collective bargaining rights (Lindquist 2007).

With Democrats in control of the State Senate during the 2007-08 session, SB 353 prevailed with bipartisan support by a margin of 21-to-12. Despite numerous, organized efforts, however, the Republican-controlled State Assembly failed to provide a committee hearing let alone a floor vote on the legislation. While some Democratic legislators expressed a mix of dissatisfaction and confusion that AFT members were working to win Republican support for collective bargaining rights, the Union’s strategy was to engage members in specific areas across the state so that (a) the Republican legislators would have significant incentive to support enabling legislation or (b) those legislators who opposed this change in the state’s labor law would be forced to register their opposition publicly, in advance of the November 2008 elections.

As indicated in Table 1, the goals of this strategy certainly match with the patterns that were established through the November 2008 elections since Democrats regained control of the state’s

three wings of government starting in January 2009. Of course, anyone familiar with the history recounted in this review knows that Democratic control did not automatically imply passage of this change in state law and so AFT members – as in 2007 – rallied to win action by the Governor and Legislature to adopt enabling legislation as part of the 2009 state budget process. This near-term goal, which was based on decades of organizational focus and years of growing momentum, was met in June 2009 when the Governor signed a budget that included bargaining rights for approximately 18,000 faculty and academic staff across the UW System.

A Successful, Accidental Non-Majority Union

One reason why this case is interesting is that it is clear in the case of Local 3535 – with its 2,000 members in the early 1970s – that the national union expected to win collective bargaining rights within approximately one year of affiliating the independent organization. Just as clearly, however, the Local remained active within the national union – without collective bargaining rights – for close to 35 years before this goal was reached. The miscalculation that informed the affiliation – by both the Local and the national union – is interesting in light of Nissen’s (2001) description of two kinds of minority unions.

At the origin of its affiliation, it is clear that Local 3535 was expected to be a “holding organization” (Nissen 2001:42) that would function as an enhanced organizing committee that would be able to pursue traditional representation elections within approximately one year. Because collective bargaining rights were not won, however, within the window that was originally imagined, Local 3535 – unintentionally – ended up on the “longer-term time horizon” track, “agitating for the workers’ cause when no election is foreseeable in the near future” (Nissen

2001:42). As for how such a “longer term” minority union persists, Nissen notes that the length of its existence would depend on “circumstances.”

Among those who have studied the experience of non-majority unions, Nack and Tarlau (2005) acknowledge that there are active debates within the national unions concerning whether it is advisable to continue investing time, energy, and resources into projects whose rewards are likely to be less definitive than more traditional organizing efforts. The cases of Locals 3535 and 223, however, demonstrate that when minority unions are fully enfranchised members of a state and national union, they are capable of winning consistent levels of support from the state and national union. Indeed, while Nissen also expresses concern that national or international unions be committed for “the long haul” (2001:50) when organizing minority unions, it is clear from the experiences of Local 3535 and 223 that full membership rights – in a union whose state federation permitted regular participation in statewide leadership roles – was a critical “circumstance” for the minority union’s persistence and the successful acquisition of collective bargaining rights.

Another important “circumstance” that permitted Locals 3535 and 223 to succeed involves the fact that AFT’s decision-making power is largely diffused through state federations. For example, AFT state federations commonly serve as clearinghouses for professional staff who are assigned to support specific Locals. Because of this relatively decentralized structure, members of Locals 3535 and 223 were able to participate in high-profile leadership roles of the state federation even without collective bargaining rights. As Table 1 indicates, members of these Locals were consistently part of the state federation’s executive board and two members were successively elected President of the state federation in 2005 and 2007, prior to the state’s adoption of enabling legislation for UW System faculty and academic staff.

To help consider this case study in light of comparable experiences elsewhere, it is worth noting that the vocabulary that researchers and practitioners are using to describe organizations like

Locals 3535 and 223 is far from consistent. For example, the two Locals could arguably have been defined as unions that were “open source” (Freeman and Rogers 2002), “minority (e.g., Nissen 2001), “non-majority” (e.g., Summers 1990), or “nonbargaining” (McKenna 2009). While Nack and Tarlau (2005) have suggested that some of these terms are unnecessary or at least overused, it is clear that future research should focus on systematically resolving some of this “terminological problem” (Mironi 2010). It is just as clear that there is not a consistent taxonomy partly because “there is very little academic literature on minority unions” (Nissen 2001:36).

In spite of the different semantics that are used to describe unions like Locals 3535 and 223, advocates of non-majority unions tend to presume that (a) members will pay reduced dues and (b) that it costs less to support such unions. For example, Summers assumes that “the cost of supporting union activities where the union lacks a majority is substantial, though less than when there is a an established bargaining relationship with a collective agreement and a grievance procedure with arbitration” (1990:547). In the same paragraph, however, Summers acknowledges that “there has been no effort, to my knowledge, to determine the level of dues necessary to support such activities by non-majority unions” (1990:547). To apply these arguments to the Wisconsin case, it is notable that (a) faculty and academic staff union members were paying full dues, which tended to be approximately 1% of salary, and (b) the campaign still required regular – and sometimes heavy – subsidies from AFT’s state federation, at least, during most of its duration. In this sense, it conceivably costs more to support an active, worthwhile nonmajority union compared with a mature, traditional union; however, if members are fully enfranchised and paying full dues, then any subsidies from the state or national affiliates will need to be less than they would be otherwise.

Organizing to Organize

While the Wisconsin case presents a successful outcome of minority unionism as a path towards a change in labor law, union advocates in the private sector who are constrained by federal labor law have recently adopted the goal of winning employer-specific neutrality agreements to enable new organizing campaigns. Given that workers are significantly more likely to unionize for collective bargaining when there are pre-existing neutrality or “card check” agreements (Eaton and Kriesky 2001), it makes sense to seek changes that would level the playing field before committing significant resources. Indeed, a growing number of studies describe the ways in which unions for hotel companies (Hurd 2008), grocery distribution centers (Lund and Wright 2003), and steel manufacturing (Eaton and Rubenstein 2006) have sought neutrality for organizing.

In his review of the various ways in which unions pursue organizing with neutrality agreements, Hurd outlines “two broad categories of neutrality agreements: those that are the product of collective bargaining and those that are negotiated as stand-alone agreements with no connection to existing collective bargaining relationships” (2008:39). In more detail, Hurd describes the approach of many unions, including the UNITE-HERE and SEIU, to win neutrality agreements through collective bargaining for organizing unorganized workplaces managed by the same employer. Through this “bargaining to organize” (Hurd 2008:37) approach, which might include making participation in joint labor-management initiatives contingent on a neutrality agreement (Eaton and Rubenstein 2006), unions use the leverage of their current organization to level the field for growth. In the other kind of campaign for neutrality agreements – where there is no pre-existing collective bargaining agreement, Hurd acknowledges that there are critics who charge that the achievement of neutrality agreements through top-down means – “typically controlled by national union leaders and staff” (2008:41) – can yield outcomes that conflict with effective unionism.

In this context, the experiences of Locals 3535 and 223 suggest that the “playing field” – whether it involves an employer-specific neutrality agreement or state-specific labor law – can also be modified through a third kind of approach that relies on worksite organizing that is led by people who are fully enfranchised as union members – and potential officers. While there are certainly limitations to this “organizing to organize” approach – perhaps especially in the private sector (e.g., Feuille, 1991), the case study in this paper demonstrates a successful example in which the Union’s internal political structure lent itself to this outcome. More specifically, rather than rely on the discretion of decision makers within the Union – but outside of the potential bargaining unit, it was active and energetic leveraging by the Locals within the state federation, primarily, that kept the campaign moving.

Conclusion

The case study of this long-haul campaign by faculty and academic staff members across the UW System is interesting in light of growing momentum on colleges and universities for unionization by tenure-track faculty (Holsinger 2008), non-tenure-track faculty (Dobbie and Robinson 2008), graduate employees (Herman and Schmid 2003; Lafer 2003), and classified staff (Albright 2008). Indeed, the relevance of unionization has become a mainstream point of analysis for any consideration of how contemporary colleges and universities are governed (e.g., Ehrenberg et al. 2004), as evidenced partly by *The Wall Street Journal’s* (2009) decision to editorialize in protest of Wisconsin’s adoption of enabling legislation for faculty and academic staff. The case study presented in this paper is also helpful, however, for the generalizable lessons and real-world data that it provides, especially given the relative lack of attention that minority unions have received to date.

Among the generalizable lessons, it is clear that two necessary components of the campaign for bargaining rights in Wisconsin were: (1) the full enfranchisement of members through Locals 3535 and 223 and (2) the relatively diffuse distribution of internal governance within the national union. In either case, it is clear that if faculty and academic staff members did not have the leverage that they were able to exercise through internal AFT governance channels, then the campaign for bargaining rights would have easily been replaced by other organizational goals. Likewise, if the AFT state federation did not have the ability to assign significant staffing resources to the two Locals and, instead, the decisions were left in the hands of regional or national governing bodies, then the two Locals would have held no leverage to extract significant and sustained commitments.

Two implications of the case study relate to (1) the importance of non-majority unions and (2) the ways in which unions seek to level the playing field for organizing new members. In this context, it is interesting that Locals 3535 and 223 successfully led the campaign for bargaining rights by “returning to [the] roots” (Morris 2004:11) of organizing a workplace independent of any near-term prospect for exclusive representation through collective bargaining. Indeed, while it was routine for international Unions to charter Locals during the 1930s, for example, that had no immediate chance of proceeding to a representation election (e.g., Kugler 1968), that practice does not presently prevail as the dominant model for organizing. While there are certainly limitations to the applicability of this case study as a model (e.g., within international unions where power is not broadly diffused), the case should help to provoke more consideration of this kind of approach to organizing new workplaces. In fact, the case provides a result for the kind of experimentation with minority unions that Hurd and Pinnock predicted might have some of “greatest potential for creativity” (2004:213) and Chaison (2006:425) outlined as part of the “path to revival.”

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Table 1

Listing of attempts to extend collective bargaining rights to University of Wisconsin faculty and academic staff and relevant campaign variables

| | | Governor | State | State | Faculty & | Members | # State | Officers | # Field | Employer | Student | MSN | Senate | position | AFT-NEA | peace? | Major | media | support? |
|-----------|-----------------|----------|--------|----------|-----------|---------|---------|----------|---------|----------|----------|---------|----------|----------|---------|--------|-------|----------|----------|
| | | State | Senate | Assembly | Ac Staff | Union | Fed | Field | Staff | Position | Position | Senate | position | AFT-NEA | peace? | Major | media | support? | |
| 1971-72 | AB 1319 | D | R | D | 2700 | | 1 | 1 | | Oppose | | O | | No | | No | | | |
| 1973-74 | AJR 54 | D | R | D | ↓ | | 1 | 1 | | | | O | | N | | N | | | |
| | AB 825 | | | | | | | | | | | O | | N | | N | | | |
| | AB 828 | | | | | | | | | | | O | | N | | N | | | |
| 1975-76 | AB 511 | D | D | D | ↓ | | 1 | 1 | | O | | O | | N | | N | | | |
| | AB 900 | | | | | | | | | Support | | O | | N | | N | | | |
| 1977-78 | SB 289 | D | D | D | ↑ | | 2 | 1 | | O | S | O | | N | | N | | | |
| | SB 335 | | | | | | | | | S | | O | | N | | N | | | |
| | SB 363 | | | | | | | | | | | O | | N | | N | | | |
| 1979-80 | SB 121 | R | D | D | 1785 | | 3 | 2 | | O | O | O | | N | | N | | | |
| 1981-82 | AB 510 / SB 395 | R | D | D | ↓ | | 2 | 2 | | O | | O | | N | | N | | | |
| | AB 452 / SB 636 | | | | | | | | | | | O | | N | | N | | | |
| 1983-84 | SB 174 / AB 282 | D | D | D | ↓ | | 1 | 2 | | O | | O | | N | | N | | | |
| 1985-86 | SB 170 | D | D | D | 1457 | | 2 | 2 | | O | | O | | N | | N | | | |
| | AB 229 | | | | | | | | | | | O | | N | | N | | | |
| | AB 179 / SB 115 | | | | | | | | | | | O | | N | | N | | | |
| 1987-88 | SB 25 | R | D | D | ↓ | | 2 | 2 | | O | O | O | | N | | N | | | |
| | AB 24 | | | | | | | | | | | O | | N | | N | | | |
| 1989-90 | SB 311 | R | D | D | ↓ | | 1 | 1 | | O | S | O | | Yes | | N | | | |
| | SB 542 | R | D | D | | | | 1 | | | | O | | Y | | N | | | |
| 1991-92 | SB 262 | R | D | D | ↓ | | 1 | 1 | | | | O | | Y | | N | | | |
| | SB 425 | | | | | | | | | | | O | | Y | | N | | | |
| 1993-94 | AB 829 | R | D / R* | D | 1000 | | 1 | 1 | | | | O | | Y | | N | | | |
| | AB 933 | | | | | | 1 | 1 | | O | | O | | Y | | N | | | |
| 1995-96 | AB 925 | R | R / D* | R | ↓ | | 1 | 1 | | | | O | | Y | | N | | | |
| 1997-98 | SB 14 | R | D / R* | R | ↓ | | 1 | 1 | | O | | O | | Y | | N | | | |
| 1999-2000 | SB 132 | R | D | R | ↓ | | 2 | 2 | | O | | O | | Y | | N | | | |
| 2001-02 | SB 145 | R | D | R | ↓ | | 2 | 2 | | O | S | Neutral | | Y | | N | | | |
| 2003-04 | | D | R | R | ↑ | | 2 | 2 | | | | N | | Y | | N | | | |
| 2005-06 | SB 452 | D | R | R | ↔ | | 3** | 3+ | | Neutral | S | N | | Y | | N | | | |
| 2007 | State Budget | D | D | R | ↔ | | 3** | 3+ | | N | S | N | | Y | | Yes | | | |
| 2007-08 | SB 353 | D | D | R | ↔ | | 2** | 3+ | | N | S | N | | Y | | Y | | | |
| 2009 | State Budget | D | D | D | ↔ | | 2** | 3+ | | N | S | N | | Y | | Y | | | |

* Leadership switched mid-session because of special elections.

** Officers included AFT State Federation President.

Sources: State of Wisconsin Blue Book, Legislative Records, AFT records

Table 2

Longitudinal record of number of faculty and academic staff positions within the University of Wisconsin System, by campus and job category.

| Full-time Equivalent (FTE) | 1978- | | | | | | |
|--------------------------------------|--------------|-------------|-------------|-------------|-------------|-------------|--------------|
| TOTAL # of Faculty FTE | 1979 | 1984 | 1989 | 1994 | 1999 | 2004 | 2008* |
| Eau Claire | 471 | 377 | 480 | 490 | 442 | 426 | 406 |
| Green Bay | 157 | 163 | 161 | 169 | 170 | 166 | 170 |
| La Crosse | 294 | 309 | 375 | 350 | 342 | 329 | 322 |
| Madison | 2150 | 2059 | 2325 | 2347 | 2108 | 2168 | 2124 |
| Milwaukee | 849 | 841 | 899 | 892 | 754 | 816 | 827 |
| Oshkosh | 500 | 428 | 450 | 410 | 386 | 374 | 406 |
| Parkside | 164 | 163 | 155 | 150 | 144 | 138 | 131 |
| Platteville | 238 | 225 | 257 | 240 | 228 | 227 | 249 |
| River Falls | 243 | 250 | 272 | 263 | 254 | 234 | 237 |
| Stevens Point | 425 | 388 | 396 | 388 | 349 | 368 | 354 |
| Stout | 308 | 312 | 323 | 319 | 308 | 287 | 297 |
| Superior | 144 | 108 | 111 | 107 | 107 | 107 | 114 |
| Whitewater | 382 | 381 | 408 | 396 | 362 | 348 | 352 |
| Colleges | 347 | 345 | 356 | 354 | 345 | 352 | 293 |
| Extension | 580 | 486 | 228 | 293 | 304 | 287 | 277 |
| Faculty totals | 7252 | 6835 | 7196 | 7168 | 6603 | 6627 | 6559 |
| | 1978- | | | | | | |
| TOTAL # of Academic Staff FTE | 1979 | 1984 | 1989 | 1994 | 1999 | 2004 | 2008 |
| Eau Claire | 153 | 303 | 220 | 203 | 236 | 250 | 276 |
| Green Bay | 117 | 134 | 162 | 178 | 189 | 204 | 186 |
| La Crosse | 169 | 194 | 195 | 232 | 262 | 293 | 296 |
| Madison | 3010 | 3815 | 4916 | 5470 | 5566 | 6578 | 7234 |
| Milwaukee | 596 | 547 | 704 | 717 | 865 | 1064 | 1150 |
| Oshkosh | 119 | 194 | 225 | 280 | 357 | 355 | 410 |
| Parkside | 114 | 137 | 152 | 161 | 139 | 175 | 192 |
| Platteville | 72 | 115 | 111 | 146 | 153 | 178 | 210 |
| River Falls | 70 | 97 | 111 | 126 | 128 | 140 | 141 |
| Stevens Point | 108 | 189 | 222 | 237 | 255 | 274 | 316 |
| Stout | 161 | 196 | 241 | 258 | 244 | 251 | 298 |
| Superior | 41 | 96 | 98 | 127 | 101 | 116 | 119 |
| Whitewater | 123 | 168 | 229 | 236 | 273 | 308 | 297 |
| Colleges | 146 | 182 | 188 | 210 | 215 | 253 | 292 |
| Extension | 363 | 459 | 339 | 386 | 493 | 568 | 560 |
| Academic Staff totals | 5362 | 6826 | 8113 | 8967 | 9476 | 11007 | 11977 |

Source: UW System Fact Book (annual publication)

* Data for 2008-09 have not yet been published.