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Shikha Dalmia: The Next Battleground in the State Labor Wars

In Michigan, unions have put a measure on the November ballot that would make collective bargaining a constitutional right.

By SHIKHA DALMIA

We've seen Gov. Scott Walker's battle in Wisconsin and the Chicago Teachers Union strike next door. Now in Michigan comes another Midwestern political showdown that will carry enormous implications for the role of unions in American life.

The Michigan Supreme Court recently approved the placement of a proposed constitutional amendment on the November ballot. If passed by voters, the so-called Protect Our Jobs amendment would give public-employee unions a potent new tool to challenge any laws—past, present or future—that limit their benefits or collective-bargaining powers. It would also bar Michigan from becoming a right-to-work state in which mandatory union dues are not a condition of employment. The budget implications are dire.

Michigan public unions began pushing the initiative last year, shortly after Michigan Gov. Rick Snyder—facing a \$2 billion fiscal hole—capped public spending on public-employee health benefits at 80% of total costs. This spring, national labor unions joined the amendment effort after failing to prevent Indiana from becoming a right-to-work state.

Bob King of the United Auto Workers said that Michigan's initiative would "send a message" to other states tempted to follow Indiana's example. The UAW, along with allies in the AFL-CIO and the Teamsters, poured \$8 million into gathering 554,000 signatures—some 200,000 more than needed—to put Protect Our Jobs on the Michigan ballot.

The amendment says that no "existing or future laws shall abridge, impair or limit" the collective-bargaining rights of Michigan workers. That may sound innocuous, but according to Patrick Wright of the Mackinac Center for Public Policy, the amendment would hand a broad

mandate to unions to challenge virtually any law they don't like.

Mr. Wright says that passage would almost certainly mean the end of Michigan's Public Act 112, which made the privatization of schools' food, busing and custodial services off-limits in collective-bargaining negotiations. More than 60% of Michigan school districts have privatized these services over the past two decades, resulting in annual savings of about \$300 million.

Also unlikely to withstand legal challenge would be last year's Public Act 4, which gave state-appointed emergency managers broad powers to turn around fiscally distressed local entities by, among other things, rewriting union contracts. The act has already been applied to four cities and three school districts that otherwise by now would have had to file for bankruptcy.

Even if unions didn't prevail in court in every instance, notes Mr. Wright, the sweeping scope of the initiative would allow them to mount endless challenges to local governments' personnel and pay decisions, making it prohibitively expensive to risk crossing union wishes.

Thanks to media leaks, we know that already the Michigan Education Association has drawn up an internal wish list of all the laws it will challenge if the initiative passes. The targets include a cap on the health-care benefits of teachers, and reforms to teacher tenure that recently enabled schools to promote teachers based on merit rather than seniority alone. But what's really exciting the teachers union is the prospect of killing "interdistrict or intradistrict open enrollment opportunities"—which would otherwise promote some competition in education by letting parents vote with their feet and send their kids to better schools.

The Michigan amendment could also mean the blocking of future laws challenging union privileges. So

Michigan's legislature would never be able to, say, pull a Scott Walker and stop doing unions the favor of withholding dues from public-employee paychecks.

It gets worse. The ballot initiative states that it would "override state laws that regulate hours and conditions of employment to the extent that those laws conflict with collective bargaining agreements." In other words, collective-bargaining agreements negotiated behind closed doors would trump the legislature—a breathtaking power grab that would turn unions into a super legislature.

Perhaps the biggest upside for unions is that the proposal would prohibit Michigan from becoming a right-to-work state. Regaining its competitive position with respect to the 23 right-to-work states that have become attractive to manufacturers, even auto makers, would be unlikely. Rather, labor would get a field-tested strategy for scrapping those states' right-to-work laws with ballot referendums.

Michigan's business community is incensed, as the initiative—supported by 48% of likely voters, according to a September EPIC-MRA

poll—would expose companies to higher taxes and uncompetitive labor costs. "It would be a mistake for union bosses to think that the business community would take this lying down," warns Rich Studley of the Michigan Chamber of Commerce.

Gov. Snyder has so far avoided a collision course with unions, even nipping attempts by conservative legislators to push a right-to-work effort. But he has warned that the amendment initiative, which he opposes, might make it impossible for him to hold back any longer: "My concern is that it could start a whole divisive atmosphere of other people trying to put right-to-work on the ballot . . . that would distract from the good things we've got going on."

So Michigan is the new battleground for labor politics. Either its unions' daring scheme will succeed, handing labor a blueprint to reclaim lost ground elsewhere. Or it will fail, with labor's influence continuing to wane nationwide. The stakes couldn't be higher.

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