



A POLICY GUIDE TO

UNION RECERTIFICATION

IN MICHIGAN

MACKINAC CENTER
POLICY PRIMER

Summary

Most union members have never had a say in which union represents them in their workplace. This is because once a union is certified, it normally maintains that certification indefinitely. When new employees start on the job, they are simply given a union card and told which union is representing them — they have no voice in the matter.

Research from James Sherk, former research fellow in labor economics at The Heritage Foundation, shows that the vast majority of union members have never voted for which union would represent them in the workplace. Only 7 percent of private sector union members were employed when their workplace was organized. The other 93 percent simply “inherited” their unions.

Even fewer public sector union members have had a say in which union represents them. Since most government unions were founded in the 1960s and ‘70s, few, if any, of the public employees who voted for those unions are still on the job. According to Sherk’s research, just 1 percent of teachers in the 10 largest school districts in Michigan were employed when their workplace was organized.

In the Ann Arbor, Detroit and Grand Rapids school districts there are likely no current teachers who voted for the unions that operate there, since these unions were founded in 1965. Further, if the age distribution of teachers in these districts mirrors that of the state as a whole, nearly 75 percent of the teachers working in these districts would not even have been born when the union in their workplace was certified.

To improve workers’ ability to choose the best representative at their workplace, unionized employees should be empowered to choose on

a regular basis which union, if any, should be granted the privilege to represent them. This would require unions to hold annual or biennial certification elections.

Unions in right-to-work states like Michigan cannot get workers fired for not paying them dues or fees. However, because unions have a monopoly on representation, they speak for every employee, regardless of membership status in the union. This means workers who opt out of union membership are still forced to accept representation from a union they likely did not elect. Unionized employees should have the power to pick who is representing them. Allowing public employees to hold regular union certification elections grants them a voice in deciding who is best suited to represent their interests.

Wisconsin recently enacted legislation to this effect and now many public sector employees in the Badger State get to vote for their union representation every year. According to John Wright, a labor policy researcher at the Show-Me Institute in Missouri, the cost of Wisconsin’s annual recertification process averages just \$1.50 per voter. The cost is paid by the union via filing fees; it costs taxpayers nothing.



83 percent of Michigan voters, and 78 percent of union households, support allowing employees to re-elect their union every two years.

Frequently Asked Questions

How would union recertification work?

Wisconsin provides a guide. Public employees have the right to recertify their union annually. The process is contracted to the American Arbitration Association and overseen by the Wisconsin Employment Relations Commission. Voting takes place via telephone over a 20-day period.

To win reelection the union must receive votes from a majority of the bargaining unit, not just those voting in the election. This includes all workers covered by the collective bargaining agreement, not just dues-paying union members.

If the union fails to obtain votes from a majority of the unit, the state commission decertifies the union and the same union or a “substantially similar collective bargaining unit” cannot try to organize the workers for 12 months.

How much will it cost?

Workplace democracy costs less than the price of a cup of coffee per vote and costs taxpayers nothing. In Wisconsin the cost is about \$1.50 per voter, which is paid for by unions. The cost varies depending on the size of the union — smaller unions pay less per voter, because the state’s filing fee is based on a sliding scale. John Wright, after studying Wisconsin’s recertification rules, suggests that these elections could be operated for as little as nine cents per vote.

Why do workers in right-to-work states need regular recertification elections?

Workers in right-to-work states do not need to pay a union as a condition of employment. But

because unions have a monopoly on worker representation, they speak for every employee, regardless of membership status. This means workers who opt out of union membership are still forced to accept representation from a union they almost certainly did not elect.

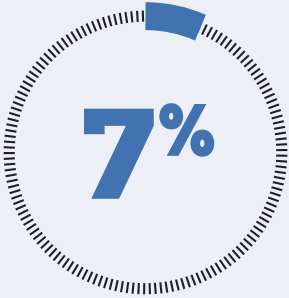
Unionized employees should have the power to pick who gets the privilege of representing them. Requiring unions to hold regular certification elections provides all employees a voice in deciding who is best-suited to represent their interests.

Don’t union members already elect their union officers? Isn’t that enough democratic accountability?

Union members typically do vote for their officers, but in many cases, the election is a forgone conclusion by the time members actually vote. Take for example the “election” of UAW officers. The Detroit Free Press reports that no UAW president has been elected since 1970 who was not endorsed by the union’s powerful Reuther Caucus. In fact, TIME magazine describes UAW officials as being “picked” rather than elected.

Additionally, workers who have opted out of union membership are not allowed to vote in officer elections or for their contracts. These workers have no say in who is going to run the unions that they are required to accept representation from.

Lastly, electing officers for a particular union provides only a limited amount of democratic accountability for the union. Only when workers have the ability to elect an entirely new union to

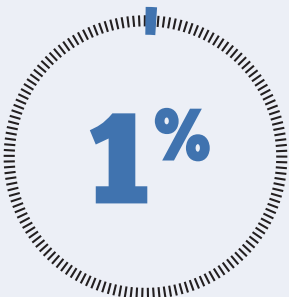


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Michigan voters support allowing employees to re-elect their union every two years

and



Just 1 percent of teachers in the 10 largest school districts in Michigan were employed when their workplace was organized

\$1.50 per voter

the cost of Wisconsin's annual recertification process

represent their interests will they be able to hold their bargaining representatives fully accountable.

Why can't union members vote out an unwanted union?

Voting out a union requires decertifying, and although it is possible, the deck is severely stacked against employees who want to pursue this option. In order to decertify a union, workers must get at least 30 percent of their co-workers to sign a petition to hold an election, and then the workers must receive a majority of the votes to decertify.

This process is not as easy as it sounds. Workers typically can only exercise this option during a narrow window based on when the current collective bargaining agreement expires. The employer may not help the workers with this process at all, but unions can and often do spend large sums of money to squash the effort.

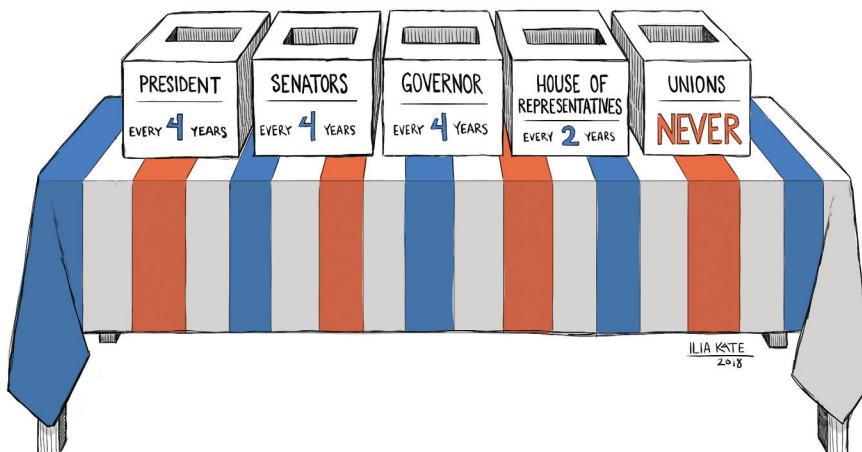
Will recertification harm unions?

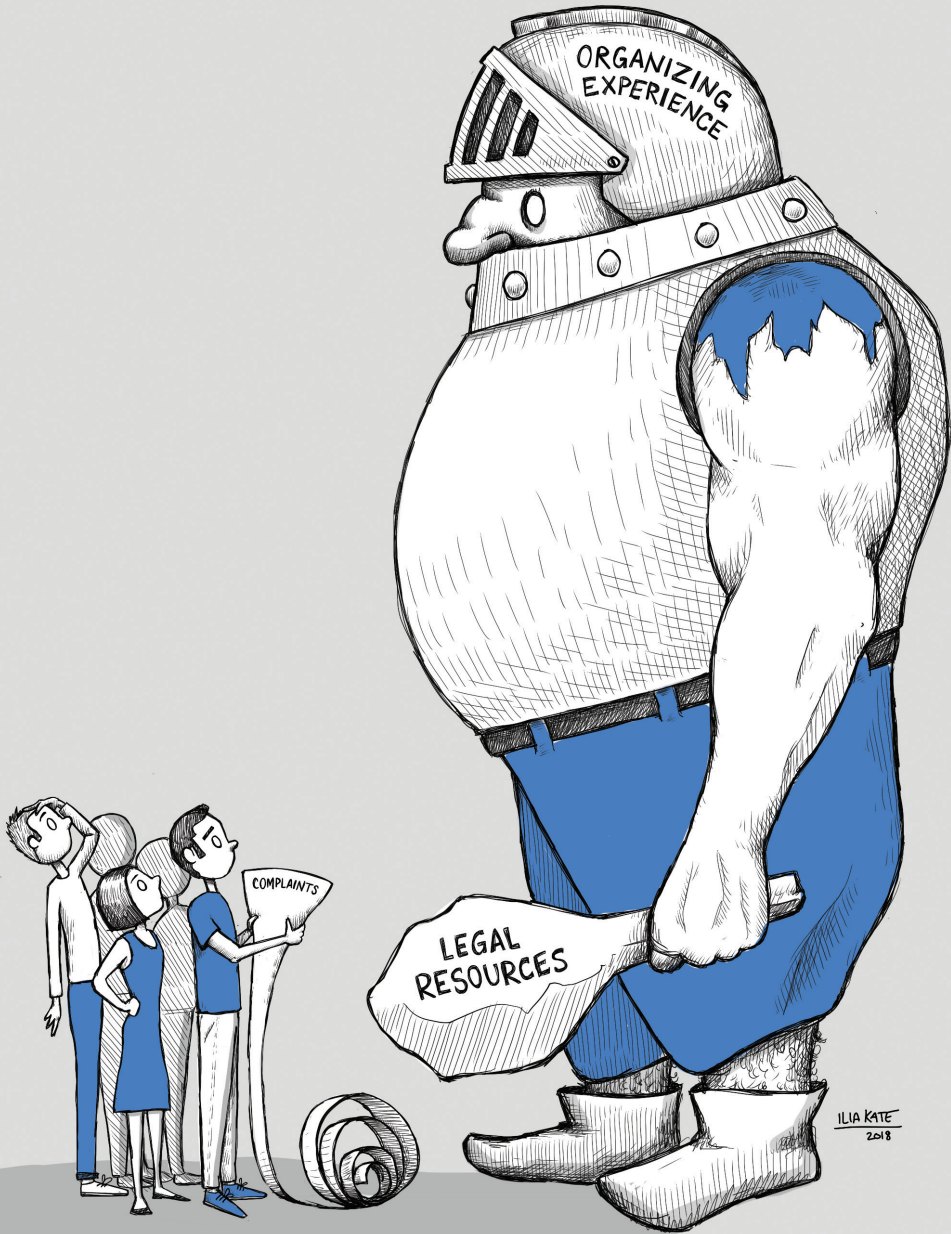
No, not in general. Union recertification will compel unions to compete and possibly enable

less-established unions to gain new members. Competition between firms yields better products and services for consumers. When unions compete, workers will be the beneficiaries of better representation and service. Union recertification will also help level the playing field for new or smaller unions that may be able to provide better representation but rarely get the chance to organize a new workplace.

Can union recertification apply to both public and private sector unions?

Because of federal pre-emption, state legislatures only have control over labor policies in the public sector. Therefore, they can only give public employees the right to regular recertification elections. Congress would need to pass federal legislation, such as the Employee Rights Act, to provide the same right to private sector union members.





ILIA KATE
2018

The union brings years of organizing experience and legal resources to bolster its effort, creating a David versus Goliath affair.

Real Stories and Real People: Why It Matters

Without a regularly required recertification process, public employees displeased with the services they get from their unions have two options: leave the union entirely or work to decertify it. Decertification is extremely difficult, but some workers have managed to do it, saving money and improving services.

In 2012, teachers in Roscommon voted overwhelmingly to decertify their union, an affiliate of the Michigan Education Association and National Education Association. This vote allowed Roscommon teachers to form their own union: the Roscommon Teachers Association.



Jim Perialas,
president of the
Roscommon
Teachers
Association

Instead of sending money to a “bureaucratic machine” — as the new union’s president put it — dues money is kept and spent locally. The group hired its own attorneys, set up a scholarship fund and still cut employees’ dues by \$400 each per year.



In Dexter, a group of bus drivers banded together to decertify the International Union of Operating Engineers union and form their own local: the West Washtenaw Bus Drivers and Monitors Association. Union members said that local-only representation was better than a large conglomerate union, located far away from local concerns.

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Coreen
Bedford

By a nearly eight-to-one margin, the clerical and technical staff at Grand Valley State University voted to break away from the Michigan Education Association and form its own union in 2014. Nearly 90 percent of the unit’s members voted in favor of an independent union, known as the Alliance of Professional Support Staff. “Over time, the value that the MEA brought to our local wasn’t worth the cost of being affiliated with them,” said Alliance spokesperson Coreen Bedford. The move by clerical and technical workers to form an independent union saved money, allowed them to hire their own attorney, retain members and disassociate themselves from the partisan political positions supported by the MEA.



Clerical workers at Grand Rapids Community College voted to leave the Michigan Education Association, with the leader of the effort declaring, “We are free.” Dues had increased from about \$200 per year in the 1990s to around \$850, including a surcharge to cover the MEA’s underfunded pension system. The new local believes it will save money and avoid focusing so much time on partisan politics.

Policy Solutions

Unionized employees should have the power to choose on a regular basis which union, if any, should be granted the privilege of representing them. Workers benefit when unions compete. Giving workers the ability to elect a new union will create incentives for unions to provide better representation for workers. Giving public employees the right to re-elect their union would make unions more accountable and more responsive to their members' concerns.

Michigan's government unions should be democratically accountable. Workers should be

able to vote for their union just like they vote for presidents, governors, legislators and other elected officials.

A union card should not be an heirloom. Employees should have a say in which union represents them, not simply inherit one.

According to a recent survey, the vast majority of Michigan voters and union households agree: Workers should have the right to reelect their union every two years.

Model Legislation for Reform

Providing public employees with democratically accountable union representation would only require small additions to Michigan's current labor law. Below is model legislation that would accomplish this policy change.

Model Legislation

No existing [collective bargaining representative/exclusive representative] as defined in [labor statute] shall continue to represent [public employees] in a unit without the concurrence of a majority of all [public employees] in the unit.

1. The [board/commission] shall direct a secret ballot election to certify the existing [collective bargaining representative/exclusive representative] retains support of a majority of all [public employees] in the unit.

- a. The [board/commission] shall promulgate rules to preserve the purity of elections and to preserve the secrecy of the ballot.
 - i. The [board/commission] shall determine whether elections shall be conducted in person, by mail, by telephone, by internet-based systems or by any other means determined by the [board/commission] to be fair, confidential and reliable. The board shall allow represented [public employees] to cast ballots for a period of [seven days/time prescribed in labor statute.]
 - ii. The [board/commission] may establish a fee schedule from [collective bargaining representative/exclusive representative] participating in elections conducted under

this section for the purpose of funding the elections.

b. Should the existing [collective bargaining representative/exclusive representative] receive votes from a majority of all [public employees] in the unit, the pre-existing certification shall continue. If the existing [collective bargaining representative/exclusive representative] fails to receive votes from a majority of all [public employees] in the unit, the [board/commission] shall decertify the [collective bargaining representative/exclusive representative] and the [public employees] shall be unrepresented.

c. In the event of a termination of certification, the terms of any pre-existing contract between the [collective bargaining representative/exclusive representative] and the [public employer] shall continue and remain in effect for the remaining contract term except for any provisions involving,

in any manner, the [collective bargaining representative/exclusive representative], including but not limited to, union security, dues and fees, and grievance and arbitration.

2. [Public employees] may certify a new [collective bargaining representative/exclusive representative] in accordance with [labor statute] so long as the [public employees] are not included with a substantially similar or affiliated [labor organization or bargaining representative] to the decertified [labor organization or bargaining representative] for 12 months from the date of decertification.

3. The [board/commission] shall start directing elections to certify majority support of existing [collective bargaining representative/exclusive representative] not less than two and not more than three years after the effective date of this act and every even numbered year thereafter; elections shall occur no earlier than August 1 and no later than December 1.

Conclusion

Michigan should give public employees the right to regularly vote on which union will be their representative, either every year or every other year. Unions should use a secret ballot or similar private voting process to protect both

workers' privacy and the integrity of the election. All unions should need to win support from a majority of all the workers in the bargaining unit to remain the exclusive representative in the workplace.



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