



Binding Arbitration's Threat to State and Local Governments

by [IVAN OSORIO](#) on NOVEMBER 16, 2012 · 0 COMMENTS

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One reason Wisconsin Governor Scott Walker's labor reforms are considered far-reaching — by both supporters and detractors — is the fact that they were structural. Rather than trim around the edges — trim some salaries here, reduce the growth of some benefits there — Walker's reforms went to the root of the problem by curbing the mechanism used by government employee unions to gain ever more generous benefits for their members: collective bargaining.

Binding arbitration is another favorite structural tool of government unions that state and local governments need to address. Originally conceived as a way to avoid strikes by public safety personnel. The Manhattan Institute's [Steven Malanga](#) explains:

Arbitration for government workers originally arose as a byproduct of states' bans on public employee strikes. If workers couldn't go out on the picket line, legislators reasoned, they should be given some system of independent mediation in contract disputes. But as public employee unions gained power, they helped shape these systems to their advantage. In some states, like New York, laws ban arbitrators from considering a local government's fiscal limitations when ruling on new contracts. In other states, arbitrators calculating an

award for workers in one city can base the amount on the pattern of pay increases in nearby cities, even if those cities are much wealthier and can afford to pay more. Government unions have learned to claim that negotiations with local officials are at an impasse, thus moving the process into arbitration, where they can expect a better deal. A study by the Manhattan Institute's Empire Center for New York State Policy has found that, for New York government workers in jobs covered by arbitration, pay increased over a 10-year period by 59 percent — compared with a one-third gain for other government workers.

Thus, for many states, counties, and cities, the upward ratcheting mechanism that keeps driving government worker compensation constantly upward is embedded in law. As my co-authors Don Bellante, David Denholm, and I explain at length in our Cato Institute study, "[Vallejo Con Dios: Why Public Sector Unionism Is a Bad Deal for Taxpayers and Representative Government](#)“:

In some states, public-sector unions enjoy another privilege in the form of compulsory binding arbitration, which is intended to resolve public-sector labor disputes without disruption of public services—yet its results often hit the public purse even worse than strikes. For the unions, it is a “can't lose” proposition, because an arbitrator will never award a settlement that is anything less than management's final offer, so the union is guaranteed to obtain at least some of its demands and will never come out worse than the status quo ante.

There is one check on union demands in arbitration—a union's final offer must be acceptable to the arbitrator for

it to be incorporated into a new contract, but that relies on the discretion of the arbitrator, whose incentive to hold down costs is unlikely to be very strong due to his or her lack of a vested interest in the labor dispute's outcome. The city of San Luis Obispo, California, shows how bad things can get under binding arbitration. In June 2008, an arbitrator awarded hefty salary increases to unionized police officers in San Luis Obispo. Police officers received immediate raises of 22.28 percent, while dispatchers and technicians got raises of 27.82 percent. For the average police officer's salary, this represents an increase from \$71,000 to \$93,000 a year, with salaries including overtime expected to top \$100,000, according to city officials. City administrative officer Ken Hampian said the increases cost the city \$1.8 million above what it planned to pay. While this may be an egregious case, the mere possibility of such a scenario should make state and local governments wary of binding arbitration.

Moving away from this true-and-tried method of fleecing taxpayers will require strong political will, courage, and fortitude on the part of state lawmakers. Public employee unions will oppose any such efforts tooth and nail. It will be a difficult fight. But given the dire state of many state and local governments' finances, voters may well reward politicians who set those aright. If so, government unions' political muscle may finally meet its match.