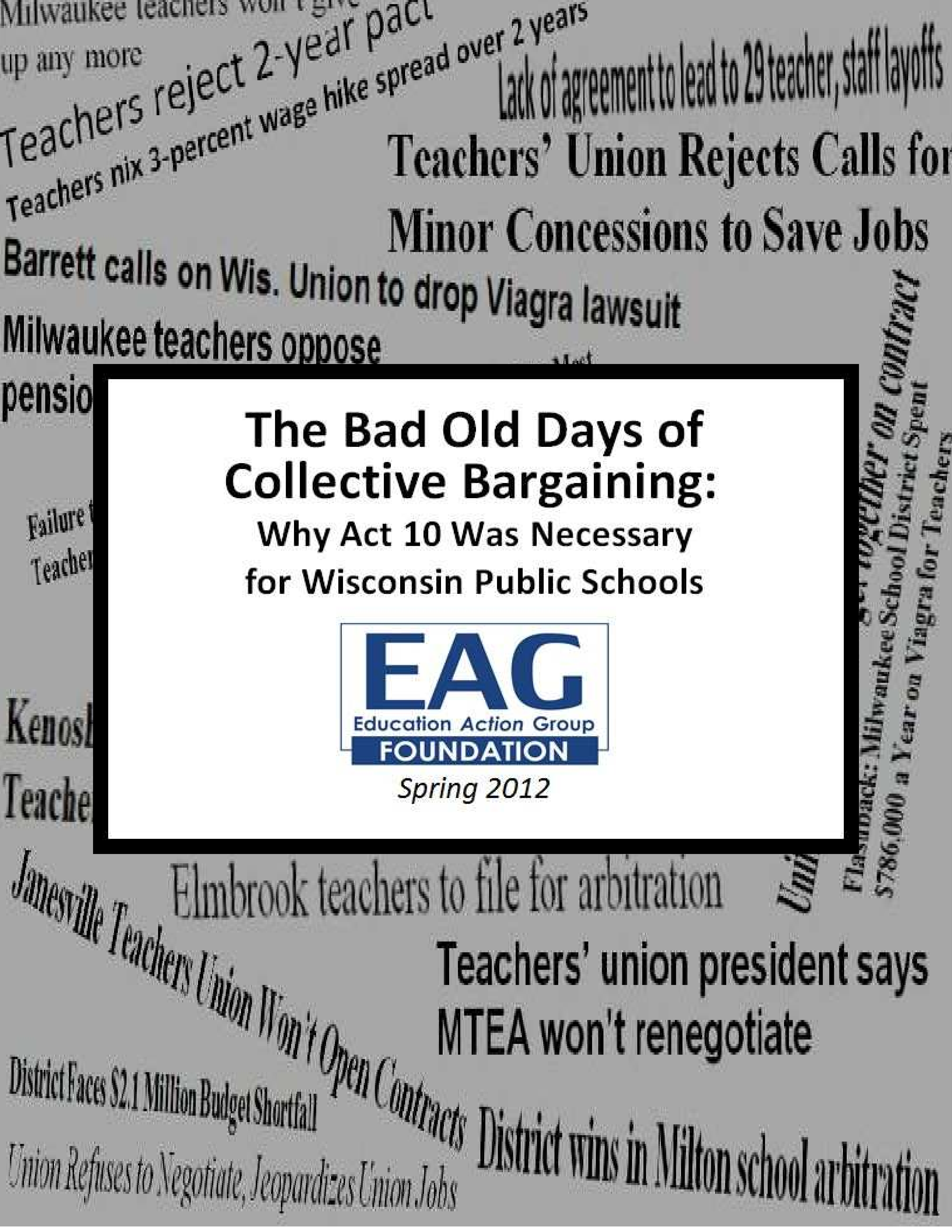

The Bad Old Days of Collective Bargaining:

Why Act 10 Was Necessary for Wisconsin Public Schools

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ABOUT EDUCATION ACTION GROUP

Education Action Group Foundation, Inc. is a Michigan-based 501(c)(3) non-partisan non-profit organization. It has been researching and promoting school spending reform for more than four years.

Originally focused solely on Michigan schools, EAG has since begun analyzing school spending across the nation. The organization has three regular publications: **Focus on Reform**, the **Ed Reform Radar** (national) and **Wisconsin School Reformer**. The newsletters focus largely on the agenda and tactics of the national teachers' unions, as well as reform efforts around the country.

EAG's research and writing are regularly seen on websites such as BigGovernment.com and Townhall.com. Kyle Olson, founder and CEO of EAG, appears in a weekly segment on ***Fox & Friends*** called "The Trouble with Schools" on the Fox News Channel.

EAG recently published a book, "**Indoctrination: How Useful Idiots Are Using Our Schools to Subvert American Exceptionalism**," which can be purchased at Amazon.com.

EAG also produced a short documentary film, "**A Tale of Two Missions**," with Fox News analyst Juan Williams, which examines the fight for school choice in Chicago. It can be viewed at **TwoMissionsMovie.com**.

Later in 2012, EAG will produce a series of reports exposing spending data and teachers contracts from around the country.

Visit **EducationActionGroup.org** for more information.

THE BAD OLD DAYS OF COLLECTIVE BARGAINING:
Why Act 10 Was Necessary for Wisconsin Public Schools

Not so long ago, the **Wisconsin Education Association Council** (WEAC), the state's largest teachers union, sported the motto, "Every child deserves a great school."

The irony of that motto was not lost on school administrators, particularly in more recent years, as they struggled to balance budgets while local WEAC unions refused to accept financial concessions that would have helped maintain quality programming for students.

In school district after school district, layoffs have occurred, class sizes have increased and student programs have been cut, partially because many unions refused to accept temporary pay freezes, or pay a bit more toward their own health insurance or pension costs.

Source: Americans for Limited Government

This was happening all over the state, even before **Gov. Scott Walker** was elected and his biannual budget slowed the rate of state aid to schools.

The problem is not difficult to understand. Most public school administrators tell us they spend between 75-85 percent of their total budgets on labor costs, mostly for salaries and benefits for union teachers. If a budget crisis hits and spending cuts are needed, school boards will logically look at the biggest part of the budget.

But under the old collective bargaining system, local teachers unions had broad legal power to reject cuts in labor costs, and frequently did so. With 80 percent of the budget often untouchable, school boards had little choice but to cut from the 20 percent that has the most profound effect on students.

Something is definitely wrong with that picture, if you believe that schools exist primarily to benefit children.

One example of this problem occurred in 2006 in **Kenosha**. The school district was struggling under the weight of a $7.2 million budget deficit, and had given preliminary layoff notices to 142 teachers. Much of the deficit was related to soaring health insurance costs, and **WEA Trust** (a teachers union-affiliated insurance company) had just given the district notice of a 20 percent rate increase for the following year.

School administrators sought bids from other insurance companies. One company offered to provide the same type of coverage for employees while only increasing costs by 2.8 percent. Non-instructional employees accepted the plan, saving the district $3 million. But the teachers union refused to break ties with its pet insurance company, dashing hopes for another $3 million in savings.

As a result, 40 lower-seniority teachers were laid off.[1]

The good news is that situations like this are no longer necessary in most Wisconsin school districts. Hundreds of districts were lucky enough to have their collective bargaining agreements expire last year, just as **Act 10** became law.

Under Act 10, public sector unions are limited to bargaining over salary, and cannot demand raises that exceed the rate of inflation. All other decisions, including details of health insurance policies, are now the exclusive domain of elected school boards.

This year many districts simply imposed the Act 10 standards for increased employee contributions toward health insurance and pension costs, saving millions of dollars in one bold stroke. A well-publicized example was the **Kaukauna** school district, which quickly turned a projected $400,000 budget deficit into a projected $1.5 million surplus when Act 10 became the law.[2]

Other districts agreed to extend their unions' collective bargaining agreements for a year or two, but only under the condition that the unions make significant financial concessions. A good example was the **Madison** district, which is expected to save $15.5 million in 2011-12 and $18.6 million the following year due to union concessions.[3]

Under either scenario, hundreds of school districts saved a great deal of money, which helped them absorb the blow of reduced tax revenue. Those savings would not have occurred without Act 10.

The bottom line is that Act 10 allows school boards to take control of their budgets without union interference and act in the best interests of students.

"I agree that Act 10, or at least some form of it, was desperately needed," wrote **Glenn Schilling**, superintendent of **Hartland-Lakeside** schools, in correspondence with EAG. "Collective bargaining is outdated. Things that made sense 20 or 30 years ago no longer make sense. But to get things out of the contract and make needed changes was impossible."

Top 10 school district savings under Act 10
(2011-12)

Racine	$19,200,000
Madison	$15,500,000
Green Bay	$11,000,000
Appleton	$10,100,000
Sheboygan	$6,650,000
West Allis	$5,900,000
Oshkosh	$5,200,000
Fond du Lac	$4,360,000
Wauwatosa	$4,000,000
La Crosse	$3,700,000

Source: MacIver Institute

As an example, Schilling noted that his district was contractually bound over the years to reimburse teachers for college classes they took, up to six credits per year, at $200 per credit. And the added credits allowed the teachers to move up the salary schedule, costing the district even more money.

"We tried to bargain that out and (the union) tried to get us to cover more of it," Schilling wrote. "But here's the irritating part. We had little or no say in the courses they would take. With Act 10, that is gone. We only pay for credits if it's a direct benefit to the district."

An uneven playing field

School boards around the state have been struggling for years to meet the ever-increasing financial demands of teachers unions, while still putting enough money aside to invest in students and classrooms.

And they've been forced to play this game on a grossly uneven playing field.

For years, most of the rules established by the state favored the unions rather than taxpayers and students. That's because the teachers unions are wealthy and politically connected through the generous campaign contributions they make to selected candidates, political action committees and parties.

If union leaders wanted something done a certain way in the past, all they had to do was call their influential friends in Madison.

One big problem for school boards has been the traditional **mediation/arbitration** system mandated by law to help avoid teacher strikes.

If contract negotiations could not be settled locally, and a state-appointed mediator was not successful in breaking the impasse, the conflicts often went to binding arbitration. Under Wisconsin's system, the arbitrator must pick either the school board's final offer or the union's final offer, with no compromise allowed.[4]

For decades school boards heading to arbitration would frequently inflate their final offers beyond what they could afford, to increase their chances of victory. If the arbitrator ruled in favor of the union's final offer, the financial losses for the district would be even greater. That was a risk many school officials could not afford to take.[5]

The arbitration system often put school districts at the mercy of neighboring districts. If the school board down the road gave in to expensive union demands, that district became a "comparable" that could be cited by the union during the arbitration process. In other words, if School A in the same athletic conference pays this much, School B should have to pay something comparable.[6]

Average Wisconsin teacher salary and fringe benefits (1998-2011)

Salary	Benefits
2011 – $50,627	$27,053
2010 – $49,093	$25,750
2009 – $48,267	$25,008
2008 – $46,128	$23,996
2007 – $45,325	$23,422
2006 – $44,077	$21,474
2005 – $43,256	$20,279
2004 – $41,650	$19,523
2003 – $41,445	$18,181
2002 – $40,910	$15,868
2001 – $40,549	$14,828
2000 – $39,629	$14,087
1999 – $39,148	$13,884
1998 – $37,897	$13,412

Source: Wisconsin Department of Public Instruction

It was also difficult for school boards to secure real concessions from unions. That's because mediators and arbitrators recognized the traditional negotiation principle of "quid pro quo," which essentially required that the unions get something of equal value in return for any concessions they made.[7]

The mediation/arbitration system worked well for union teachers. Between 1979 (when the system was implemented) and 1992, the average salary for Wisconsin teachers skyrocketed from $16,000 to $35,074, which is close to a 10 percent increase each year.[8]

In 1993, the state instituted a new system based on the **"Qualified Economic Offer"** concept. School boards could avoid the mediation/arbitration process by offering their unions a combination of salary and benefit increases equaling at least 3.8 percent.

While the QEO law established a ceiling on the amount of money unions could extort from schools during contract negotiations, quite often the 3.8 percent increase in labor costs were more than schools could afford.

"If (the union) goes up four percent every year, but there is only a two percent increase in school revenue every year, there's going to be a growing gap," said one school board president from a southeastern district who declined to be identified.

"The only real option many districts had over the past 20 years was to reduce labor. And by doing that it was necessary to increase class sizes."

While salary increases slowed for teachers during the QEO period, they still made out well. Between 1998 and 2011, the average salary for public school teachers increased from $37,897 to $50,627, while the average fringe benefit cost per teacher increased from $13,412 to $27,053.[9]

Limited taxing authority, expensive insurance

Former **Gov. Jim Doyle** and the Democrat-controlled legislature, prompted by their allies in the teachers union who were unhappy with the ceiling on raises, dumped the QEO law in 2009.[10]

That sent many labor disputes back to the old mediation/arbitration system, but under a new set of rules even more strongly tilted in the unions' favor. Arbitrators were no longer allowed to give strong consideration to the general economic conditions within a school district, or a district's ability to pay increased compensation, when making their decisions.[11]

That means, according to the law, arbitrators could force school districts to give their union employees large raises without strongly considering whether the schools or local taxpayers could afford such an expenditure.

Former Gov. Jim Doyle (D)

Meanwhile, the state, citing the legitimate need to control runaway property taxes, has continually limited school boards' ability to increase local levies without voter approval.

That's certainly understandable from a taxpayer point of view. School-related property taxes had been rising by an average of 4.2 percent every year between 2001-02 and 2011-12, even as property values plummeted in more recent years, according to information provided by the **Wisconsin Taxpayers Alliance**. Under Act 10, overall school property tax bills declined by one percent this year, according to the WTA.[12]

But as the state acted to protect overburdened property owners, schools lost a valuable source of revenue to offset constantly increasing labor costs and stagnant state aid.

"We had the QEO up until a few years ago, and after that came off we were at the point where we had revenue controls but the unions could still go to arbitration," **Bill Bracken**, a veteran labor relations specialist from the **Oshkosh** law firm of **Davis & Kuelthau**, told EAG. "If you were a school board, you were trapped."

And then there was the WEA Trust problem, which **EAG** highlighted in our 2010 report, "**A Crucial Challenge for Wisconsin Schools: Escaping the Financial Shackles of WEA Trust Insurance**."

WEA Trust is an insurance company established by and closely associated with WEAC. For years local WEAC negotiators would go to the bargaining table with school boards demanding "Cadillac" health coverage through WEA Trust, despite its very high cost. Schools would frequently pay all or most of the monthly premiums for the costly insurance, with no contributions from employees.

Once WEA Trust was written into union contracts as a district's official insurer, local unions frequently refused to consider proposals for less expensive coverage, even if that made budget cuts to other programs necessary.[13]

In an era of skyrocketing health care costs, being tied to an overpriced insurance carrier was a financial ball and chain for Wisconsin schools.

"School districts were essentially prevented from looking for a better bargain when it came to health insurance," **Brian Fraley**, communications director for the Madison-based **MacIver Institute**, told EAG. "That was a perfect example of how collective bargaining prevented government from functioning efficiently."

Act 10 to the rescue

The situation became intolerable for many public schools over the past few years, as the national recession slowed tax revenues for the state, and consequently for public schools.

School districts found themselves dealing with huge budget deficits – for instance, $32 million in Kenosha – and no clear plan to eliminate those shortfalls and maintain enough money to operate quality programs for students.

Out of desperation, many school boards turned to their teachers unions for voluntary help. They frequently sought minor salary adjustments from the unions, or reductions in the cost of benefits, to preserve some resources for students.

Bob Peterson

But local unions, protected by the terms of their collective bargaining agreements, frequently said "no" to these requests.

One good example came last year, when Milwaukee administrators asked the teachers union to allow members to pay a small portion of their pension costs, to help the district save 200 teaching jobs.

The union, under radical **President Bob Peterson**, rejected the idea and the layoffs occurred.

"You could talk to the union about it, but the reaction would usually be, 'Sure we understand, but we have a deal. It's your problem,'" said the board member who declined to be identified.

Nobody is suggesting that individual teachers are the problem. There are thousands of great public school teachers in Wisconsin who would gladly give back a few bucks to make sure kids get the opportunities they need. Sometimes local unions took the same approach, offering concessions to help their school boards save money.

But in too many instances, regional and state union officials would step in and prevent a cooperative solution. A good example is the Hartland-Lakeside district, where last year the school board and local union agreed to switch from WEA Trust health insurance to a far less expensive plan provided by another company.

Regional union officials objected, and the deal was cancelled, according to Schilling, the district superintendent.

None of this should surprise anyone. Despite their insistence that they care about the welfare of students, teachers unions are designed to represent the financial interests of school employees, which often run counter to the financial interests of students.

"They talk about the welfare of students, but I really question that," **Waukesha Superintendent Todd Gray** told EAG. "They used their power to take away the QEO and restructure the arbitration system in their favor. The only way districts could deal with that was a reduction in staff."

The following pages offer several examples of Wisconsin teachers unions obstructing the efforts of local school boards to balance budgets and maintain quality programs for students. There are almost certainly hundreds of similar stories that could be told by school administrators across Wisconsin.

We encourage everyone to contact their local school board or administrators, to learn more about how their local teachers unions responded in recent years when they were called upon to make a few sacrifices to help salvage resources for students. And please feel free to let us know what you find out.

Remember, under Act 10, the type of frustrating situations outlined below will no longer be possible when collective bargaining agreements in all school districts expire. Union obstructionism can only come back to haunt Wisconsin schools if the state is foolish enough to dump Act 10.

WEAC-PAC state political spending

Union contributes to Democrats; Dems pass union-friendly laws

	2008	2009	2010	2011	Totals
Candidates	$47,381	$17,250	$90,542	$10,500	$165,673
To Democrats	$46,881	$0	$88,042	$10,500	$145,423
To Republicans	$500	$0	$2,500	$0	$3,000
Non-partisan	$0	$17,250	$0	$0	$17,250
Large PACs	$352,000	$82,500	$281,584	$416,000	$1,132,084
To Democrats	$350,000	$80,000	$281,584	$416,000	$1,127,584
To Republicans	$2,000	$2,500	$0	$0	$4,500
Ads	$2,100,000	$544,527	$1,596,716	$377,000	$4,618,243
Consulting/research	$314,575	$128,921	$276,100	$292,000	$1,011,596

Source: Wisconsin Finance Information System and Maplight.org

DID UNIONS WANT TO HELP PRESERVE DOLLARS FOR STUDENTS?

SCHOOL DISTRICT	DISTRICT REQUEST	UNION RESPONSE
Hartland-Lakeside	Two contract proposals (with pay increases) to help district end six-figure annual losses due to the early retirement program.	**NO**
Hartland-Lakeside	Switch employee health plan at a savings of roughly $500,000 per year.	**NO**
New Berlin	Contract proposal with pay increase one year and wage freeze another to help eliminate $2.1 million deficit and save 27 teaching jobs.	**NO**
Milwaukee 2010	Switch to a less expensive employee health care plan at no cost to employees, saving $48 million and 480 teaching jobs.	**NO**
Milwaukee 2010	Cash-strapped district wanted to drop insurance coverage for Viagra, which was costing taxpayers $786,000 per year.	**NO**
Milwaukee 2011	Have employees pay 5.8 percent of their pension costs to help absorb $180 million in lost revenue and save as many as 200 teaching jobs.	**NO**
Kenosha	Renegotiate union contract to help eliminate $32 million deficit and save 157 jobs, including 107 teaching jobs.	**NO**
Waukesha	Restructure expensive and unsustainable "step" salary chart and early retirement program to keep district on sound financial footing.	**NO**
Milton	Switch employee health insurance carrier. Employees would get comparable coverage and the district would save about $450,000 per year.	**NO**
Janesville	Renegotiate union contract to help eliminate $9 million deficit and avoid the layoffs of 100 employees, including roughly 70 lower seniority teachers.	**NO**
West Bend	Increase employee health and pension contributions, freeze annual raises, change retirement age from 55 to 57 to help eliminate $6 million deficit.	**NO**

HARTLAND-LAKESIDE: WEAC OFFICIALS SUBVERT LOCAL UNION

School finances were getting tight in the Hartland-Lakeside district in 2010.

In recent years the district had been forced to trim more than $3.5 million from its budget and cut its support staff, including custodians and secretaries, by half.[14]

There wasn't much room for the district to wiggle financially, because 80 percent of the budget was already dedicated to labor costs, mostly wages and benefits for union employees, according to Superintendent Glenn Schilling.

Particularly crippling was the employee early retirement program, which under collective bargaining rules was paid for entirely by the district. The program had produced deficits ranging between $350,000 and $700,000 for about six consecutive years, according to Schilling.

"It's hard to think of (state and regional) union reps caring about the best interests of the district. The local union reps, yes, but they get squashed."
– Superintendent Glenn Schilling

The school board clearly needed the teachers union to make some financial concessions to avoid layoffs and program cuts. But that was a difficult goal to accomplish.

In 2010 the union rejected two contract offers. The first included a two percent salary increase for the first year and a salary freeze the second. The second offer included a two percent salary increase the first year and a one percent increase the second.[15]

Both proposals included provisions to freeze early retirement insurance payouts beginning in 2015, Schilling said.

The union's refusal to cooperate put academic programs for students in direct jeopardy. As the local newspaper stated, "With the latest offer to Hartland-Lakeside teachers rejected, the district is now headed to arbitration, which means the fate of some educational programs remain up in the air."[16]

During the summer of 2010, after the first offer was rejected, Schilling said he called local union representatives into his office with a better offer. It quickly became apparent that local union officials who worked in the district and cared about students were not calling the shots.

"I said 'Let's settle this. I don't want to go into the school year with this,'" Schilling told EAG. "We made an improved offer which was favorable to the local union reps. But they had to take it to the (regional) Uniserv director.

"I thought I had a deal. Then I talked to a WEAC person and was told it didn't go through. It got shot down. So I called in a local union rep and said, 'We don't want to lay people off. I don't understand why we can't do this.' And she replied, 'You make it seem like I have any say in this,' then she turned around and walked away."

A contract settlement only came with the impending passage of Act 10. Union officials, desperate to maintain collective bargaining and the flow of dollars from automatic dues deductions from paychecks, finally agreed to a retroactive contract in April 2011.

"The offer that was finally accepted was less than the second offer," said Schilling, noting that the union finally accepted a salary freeze for the first year, a 2 percent raise for the second, and dramatic cuts to the early retirement program.

Savings from this contract will amount to roughly $1 million per year, according to Schilling.

The superintendent was not done. With the legality of Act 10 still being sorted out by the courts last spring, he called in a committee of 12 teachers, including local union representatives, to discuss switching from WEA Trust health coverage to a less expensive plan.

The committee agreed to switch to another insurance company, with projected savings of more than $500,000 per year. The full staff then endorsed the switch by a unanimous vote, according to Schilling.

But the Uniserv director from the regional teachers union stepped in, saying the union would only approve the switch if the school board agreed to extend the new collective bargaining contract by one year, Schilling said.

"Our school board rejected that, and our teachers were very angry that they were not allowed (to make the switch) when it was their decision," Schilling said.

The school board waited until the recently negotiated collective bargaining agreement expired in June, then used the terms of Act 10 to unilaterally switch insurance carriers. The board also imposed the standard 5.8 percent teacher contribution toward pensions. The two combined moves are saving the district about $900,000 per year, Schilling said.

Hartland-Lakeside teachers eventually voted to drop WEAC representation. Schilling said labor relations at the district level might have been much smoother if it weren't for the interference of regional and state union officials.

"It's hard to think of (state and regional) union reps caring about the best interests of the district," Schilling said. "The local union reps, yes, but they get squashed."

Savings from Act 10 were not enough to balance the district's budget, and the school board was forced to ask voters to approve extra millage to cover some operating costs. But Schilling acknowledges that without Act 10, the financial condition of the district would be much worse.

"Without finances from Act 10, instead of the referendum being only a small increase, like two percent, we would have had to ask taxpayers for much more, which would be a very hard sell," Schilling said.

NEW BERLIN: UNION INDIFFERENT TO DISTRICT'S FINANCIAL WOES

The financial situation was equally ugly in the New Berlin school district in 2010, and the school board was prepared to lay off 27 employees.

"Should the taxpayers never have their taxes raised? Why should the teachers shoulder the entire burden?"
– Union President Diane Lazewski

The key to saving those jobs was coming to an affordable collective bargaining agreement with the teachers union, which had been working without a contract since June 2009.

The district, facing a $2.1 million deficit, was offering a wage freeze for the 2009-10 school year and a one percent raise for the 2010-11 school year. The district was also offering to maintain insurance coverage without an extra contribution from teachers, and continue to pay teachers contributions to the **Wisconsin Retirement System**.

Teachers would have also been allowed to maintain their automatic, annual "step" salary increases for both years of the contract.[17]

The school board made it clear that union acceptance of the final offer would save the jobs of the 27 employees set to be laid off.[18]

The union rejected the offer without taking it to the membership for a vote.[19]

When asked if teachers were open to the idea of a wage freeze to save the jobs of less senior employees, union **President Diane Lazewski** was quoted as saying, "Should the taxpayers never have their taxes raised? Why should the teachers shoulder the entire burden?"[20]

School Board President John Kegel reminded the media that many New Berlin residents were unemployed or underemployed at the moment, and hadn't received any type of raises at all. He called the offer of a one percent raise "pretty good for these times" and said he was "disappointed the union didn't even take it to a vote."[21]

The lack of progress in contract negotiations prompted the school board to file for mediation, and consider arbitration. But then Act 10 was introduced and the new rules suddenly favored the school board. With big changes in collective bargaining around the corner, the board invited the union to talk one more time.

"When we saw (Act 10) coming, we asked the union if they wanted to talk, and they came back with an untenable position," New Berlin finance director **Roger Dickson** told EAG. "We were so far apart that we just let Act 10 go into effect."

> *"The reality is, before Act 10 we were unable to come with any cost-savings strategy or any kind of educator effectiveness strategy, or to reverse the trend of putting adult employee needs before student needs."*
> **– Finance Director Roger Dickson**

Using the tools provided by Act 10, the school board cut its pension costs in half, saving about $1.2 million per year, according to Dickson. It made some simple changes to health insurance coverage, without charging employees anything toward premiums, saving about $1.5 million per year, he said.

The new contract also addressed post-retirement benefits, putting an end to an unsustainable system that allowed some teachers to retire with cash payments as high as $15,000. The changes allowed the district to reduce its unfunded pension liability by nearly $14 million.

Overall the district went from having a large budget deficit before Act 10, and expects to finish the current school year with a budget surplus.

Without having to deal with union interference, the board also rolled back paid leave time for teachers, extended their work day by an hour and determined that teachers must be accessible to students for up to 30 minutes outside of class every day.

The board is also instituting a performance-based compensation system for teachers, according to Dickson.

"The reality is, before Act 10 we were unable to come up with any cost-savings strategy or any kind of educator effectiveness strategy, or to reverse the trend of putting adult employee needs before student needs," Dickson said.

"The tools given to us were absolutely necessary. We could have been facing cuts in programs, increasing class sizes and a watered-down curriculum."

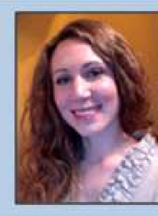
MILWAUKEE 2010-11: UNION WILLING TO "EAT ITS YOUNG"

The Milwaukee school board was faced with the necessity of cutting millions of dollars from its 2010-11 budget. Officials said one of the major reasons for the shortfall was the extremely high cost of employee benefits, which had been negotiated into previous union contracts.

The average salary for district teachers at the time was over $56,000 per year, while the average cost of benefits per teacher was $43,505, bringing the average cost of total compensation to approximately $100,000 per year.[22]

District officials estimated that they would be spending about 74 cents in benefits for every dollar spent on salary in the next school year. That's very high compared to private sector companies, whose benefit costs are generally in the range of 30 cents for every dollar spent on salary.[23]

> *"Given the opportunity, of course I would switch to a different plan to save my job, or the jobs of 10 other teachers."*
> **– MPS teacher Megan Sampson**



If the benefit rate had remained at 2009-10 levels – 68 cents per dollar – the district would have been able to save an estimated $28 million.[24]

"That is money that could be used to staff classrooms with more teachers, with more supplies and support," said **William Andrekopoulous**, the superintendent at the time. "That money, as is now budgeted, is opportunity lost."[25]

The immediate solution proposed by the district was to lay off 482 educators, more than 12 percent of the full-time teachers in the district.[26] It would have been the first time the district laid off teachers for budgetary purposes since the 1980s.[27]

But there was another option.

District teachers, under terms of their collective bargaining agreement, had a choice between two very generous health care plans. One plan was more expensive than the other. Teachers could choose either, and the district paid 100 percent of their insurance premiums.

In an attempt to save jobs, the school board asked the union to amend the collective bargaining agreement, so all teachers would be switched to the less expensive insurance plan, with no out-of-pocket costs. The board estimated that the switch would save the district about $48 million per year, enough to retain nearly all of the teachers who faced layoffs.[28]

"We could literally save hundreds of jobs with the stroke of a pen if teachers switched to a lower-cost health plan," **School Board President Michael Bonds** said. "I'm not aware of any place in the nation that pays 100 percent of teachers' health-care benefits and doesn't require a contribution from those who choose to take a more expensive plan."[29]

The union responded with a vigorous "no" to the proposed switch, and called on taxpayers to cough up more money to maintain their overpriced benefit package.

"The problem must be addressed with a national solution – a federal stimulus package that will restore educator positions and allow MPS children to keep their teachers," said **Pat O'Mahar**, interim executive director of the **Milwaukee Teachers Education Association**.[30]

So the layoff notices went out.

Many teachers facing layoffs told the media "their union did not keep them informed of the ongoing budget deliberations or the fact that their positions were at risk.”[31]

Among those who received a pink slip was **Megan Sampson**, who had just been named “**Outstanding First Year Teacher**” by the **Wisconsin Council of Teachers of English**.

“Given the opportunity, of course I would switch to a different plan to save my job, or the jobs of 10 other teachers,” Sampson said.[32]

Teachers unions have a tradition of allowing their younger members to lose their jobs to protect the salaries and benefits of senior members. Many school administrators refer to this practice as union members “eating their young.”

About 350 of the 482 teachers who received layoff notices were called back the following fall, due to retirements, resignations and the availability of federal stimulus money.[33] But that wasn’t the case the following year in Milwaukee.

MILWAUKEE 2011: UNION GETS LONG-TERM PACT, DISTRICT BLEEDS

The Milwaukee school board agreed to a new four-year collective bargaining agreement with the teachers union in late 2010.

Both sides bragged that the new pact, approved just after Walker was elected governor and months before the introduction of Act 10, would allow the district to save about $94 million in labor costs over two years.[34]

“Children are being caught in the middle. They deserve better.”
– Supt. Gregory Thornton

But the new contract only forced employees to pay two percent of their health care costs, and nothing at all toward retirement pensions.[35] Most other districts around the state would soon be imposing the 12.6 percent health insurance contribution and 5.8 percent pension contribution called for by Act 10.

Those districts saved a lot of money, but the Milwaukee district can’t impose those employee contribution rates until 2013, when the teachers union contract expires. School officials soon learned the savings from increased employee contributions under Act 10 standards – estimated at $41 million – could have come in handy.[36]

Last summer the district was faced with the need to cut about $180 million from its budget, due largely to the loss of $82 million in federal stimulus dollars and about $84 million in state aid.

Officials reacted by sending out 519 layoff notices, leaving another 514 jobs unfilled, making plans to increase elementary class sizes, canceling the purchase of new textbooks, reducing the summer school program and freezing all unnecessary building maintenance.[37]

Superintendent Gregory Thornton indicated that if the union agreed to allow its members pay the 5.8 percent pension contribution, the savings might prevent the layoff of roughly 200 teachers. Other employee unions had already agreed to the pension contribution, according to Thornton, but the teachers union said “no.”[38]

“Children are being caught in the middle,” Thornton said. “They deserve better.”[39]

A year earlier, the union said it suspected the district was bluffing about its threat of mass layoffs. But in 2011 Milwaukee Teachers Education Association President Bob Peterson acknowledged the district had severe financial problems, and said he had no doubt that the threatened layoffs would occur.[40]

But Peterson and other union leaders still refused to reopen contract negotiations. As a result, 354 teachers and another 173 employees were laid off before school started in the fall.[41]

"This is not a knee-jerk no," Peterson told the media. "This is a thoughtful no because it's not in the best interest of our kids. It's difficult enough to recruit and retain quality teachers. Making more concessions will make that even more difficult."[42]

How does the loss of 354 enthusiastic young teachers in the best interest of the kids?

There is a silver lining to this story. Late last year the Milwaukee school board finally came to its senses and decided to invoke Act 10 and make massive cuts in labor costs, which will click in when current union contracts expire.[43]

But those changes won't take effect until June 2013. Until then the students of Milwaukee will continue to be underserved in a school district that prioritized the concerns of union employees for far too long.

MILWAUKEE 2010: UNION FIGHTS FOR SIX-FIGURE VIAGRA COVERAGE

In 2002 Milwaukee Public Schools agreed to provide employee insurance coverage for the male impotency drug **Viagra**. The school board tried to drop the coverage during contract negotiations a few years later, citing the need to cut costs, but the teachers union fought to maintain it.

An arbitrator sided with the district and Viagra coverage was dropped. But the union decided to keep fighting.

"I believe education dollars should be devoted to enhance performance in the classroom, and I urge you to drop the lawsuit." – **Milwaukee Mayor Tom Barrett**

The Milwaukee Teachers Education Association filed a complaint with the state's **Equal Rights Division** in 2008, demanding renewed coverage on the grounds that the district was discriminating against male employees because female sexual dysfunction drugs continued to be covered.[44]

A **Department of Labor and Industry** review commission later dismissed that complaint, but the union responded by filing a lawsuit to renew Viagra coverage in 2010.[45]

Perhaps the union had a point about discrimination. Why were tax dollars being used to pay for recreational sexual drugs for anybody – male or female – at a time when younger teachers were being laid off and student programs were being cancelled?

Union officials didn't seem to care that the district was paying an estimated $786,000 per year to cover this drug, which is enough to employ roughly 12 first-year teachers.[46]

Ironically, several **Democratic** elected officials, who typically support teachers unions, harshly condemned the union lawsuit.

"I believe education dollars should be devoted to enhance performance in the classroom, and I urge you to drop the lawsuit," wrote **Milwaukee Mayor Tom Barrett**, the 2010 Democratic nominee for governor, in a letter to the union president.[47]

“You’ve got to be kidding me,” said **State Rep. Jason Fields**, D-Milwaukee, when he learned about the union lawsuit to protect Viagra coverage. “The fact that this is a point of contention is kind of frightening. What are our priorities? I’m all for love and peace. But almost $1 million? And you go to court over this issue?”[48]

The union, under intense public pressure, dropped its lawsuit in March 2011. The bad news was that the district was forced to spend $20,987 in legal fees to deal with the situation.[49]

KENOSHA: UNION WON’T RENEGOTIATE TO ERASE MASSIVE DEFICIT

In July 2010, the **Kenosha** school board arguably made a crucial mistake. It signed a new three-year collective bargaining agreement with its teachers union, tying the district to expensive labor commitments about a year before Act 10 became law.

At the time the contract seemed safe enough for the district, because its estimated budget deficit was relatively small, according to **Gary Vaillancourt**, chief communications officer for Kenosha schools.

Then the economy worsened, state aid slowed, and huge budget problems appeared on the horizon.

Faced with a $32 million deficit in March 2011, the school board turned to the **Kenosha Education Association** (the teachers union) for assistance. It asked the union to reopen negotiations on the new contract, to look for possible savings through reduced labor costs.

“Let me state emphatically, the district has asked the KEA to reopen the contract.”
– Superintendent Michele Hancock

The district had already saved some money through two-year pay freezes accepted by the unions representing carpenters, painters, secretaries, interpreters, substitute teachers and education support personnel, according to Vaillancourt. Administrative, supervisory and technical personnel, all non-union employees, also had their salaries frozen, he said.

“Let me state emphatically, the district has asked the KEA to reopen the contract,” **Superintendent Michele Hancock** wrote in a letter to teachers.[50]

The district was hoping to address several issues in renewed negotiations, including a scheduled three percent salary increase for teachers, as well as teacher contributions toward health care and retirement costs, according to Vaillancourt.

While most districts in the state are now charging teachers 12.6 percent of health care premium costs and 5.8 percent of their salary for pensions, Kenosha teachers pay only 4 percent toward health care and 1 percent toward pensions, Vaillancourt said.

Overall the school board was hoping to save at least $13 million per year through teachers union contract concessions, according to Vaillancourt.

But the leadership of the teachers union responded with a firm “no.”

The decision came from the Kenosha Education Association’s bargaining committee. While rank-and-file members were present at a meeting where the issue was discussed, they were not allowed to vote on the question.[51]

The union's lack of cooperation was very bad news for the district. The school board cannot apply the terms of Act 10 to unilaterally cut labor costs until the teachers union contract expires in 2013.

That left the district with no choice but to eliminate the budget deficit on the backs of students.

A total of 107 full-time teaching positions were eliminated in the fall of 2011, along with another 50 employees, Vaillancourt said. While the district eliminated some student programs, most of the cuts were aimed at personnel, resulting in larger class sizes, he said.

"We had to come up with $32 million for fiscal 2012," Vaillancourt said.

Hope remains for some type of sane settlement. Union leaders met with district officials in recent weeks, and while little progress was reported, the two sides agreed to meet again, according to Vaillancourt.

"The bottom line is that this is about the kids," Vaillancourt said. "The hope is that cooler heads will prevail."

WAUKESHA: UNION PROTECTS LUCRATIVE CONTRACT PROVISIONS

The common belief was that the worst had passed when **Todd Gray** became superintendent of the **Waukesha** school district in June 2008.

Expensive labor contracts had forced the district to lay off nearly a hundred staff members, including many teachers, over several previous years. That left the district with some of the largest class sizes in the state, according to Gray.

Things looked a little brighter when the school board agreed to a new collective bargaining contract with the teachers union in 2008. The new pact allowed the district to switch from overpriced WEA Trust insurance to a less expensive health plan, saving the district about $1.4 million per year, according to Gray.

> *"We couldn't sustain a salary schedule that allowed teachers to move up from $38,000 to $78,000 in nine years."*
> **– Superintendent Todd Gray**

But officials saw new financial storm clouds on the horizon. Labor costs were still posing a problem as the economy slumped and the flow of tax revenue slowed.

There were two main issues. The district's teacher salary schedule was among the most generous in the state. It allowed teachers making progress on their graduate work to move from the bottom to the top of the salary scale in nine years. In most districts it takes 16-20 years to reach the highest salary.

"We couldn't sustain a salary schedule that allowed teachers to move up from $38,000 to $78,000 in nine years," Gray told EAG.

Another nightmare was the district's early retirement program, which provided teachers with up to seven years of full health coverage following retirement. The district was also forced to spend big bucks to purchase credit years for teachers from the state retirement system, so they could qualify for their pensions early, Gray said.

"Thirty teachers retiring a year could cost the district as much as $300,000 to $400,000," he said.

The school board attempted to address both issues when negotiations began for the 2010-11 collective bargaining agreement. But union negotiators were reluctant to part with the expensive salary schedule or early retirement plan, forcing the school board to make a move, according to Gray.

Board members responded by invoking a "sunset" clause that was written into the prior contract, allowing either side to opt out of the early retirement program.

"Negotiations were not working in terms of addressing the salary schedule," Gray said. "The union wanted certain promises to even talk about it. So the board grew frustrated and invoked the sunset clause on the early retirement program."

That move, although perfectly legal under terms of the existing contract, brought the wrath of the union crashing down on the district.

"That's a very big understatement," Gray said of the union anger. "There was a lot of negative rhetoric. They took out ads in the paper, calling themselves hostages. Forty people wanted to retire early in 2010, and they couldn't, so they were the 40 hostages."

They of course could have retired, but would not have enjoyed a golden rocking chair, courtesy of taxpayers.

The contract dispute dragged on, prompting the school board to file for arbitration. A hearing was yet to take place when Act 10 was approved in early 2011, scaring the union back to the bargaining table.

Using leverage from the threat of the new law, the school board was able to get a very favorable contract, according to Gray.

Salaries were frozen for the first year and limited to a one percent increase for the second. The board agreed to bring back the early retirement program for one year, which led to a mass exodus of about 140 employees, including the entire union bargaining team. Younger and less expensive replacements were hired, saving the district about $3 million.

The board also cut the scope of the permanent early retirement program by 60 percent, saving the district additional millions per year, Gray said.

Without the wiggle room provided by Act 10, the district's financial situation could have spiraled out of control, particularly after state budget cuts took effect.

"It would have been very, very ugly," Gray said. "Sooner or later, we had to pay the piper."

MILTON: PROTRACTED FIGHT TO GET LESS EXPENSIVE INSURANCE

The small **Milton** school district was facing the prospect of an estimated $600,000 budget deficit in 2009. Like many Wisconsin districts, its budget was strained by the high cost of employee health insurance coverage purchased from the union-affiliated WEA Trust.

The district's administrators and support staff already accepted insurance through a less expensive carrier. But to make a real difference in the budget, the school board needed the teachers union to switch to a less expensive plan that then-Superintendent **Bernie Nikolay** described as "essentially identical to the WEA Trust plan."

"Many people thought it was a no-brainer to switch to less expensive insurance while at the same time keeping the same benefits," Nikolay told EAG. "But then we were met with huge opposition. The union didn't want anything to do with changing the health insurance carrier.

"The union leadership and most of the rank-and-file were vehemently against the idea. They'd been sold over the years on the idea they had given up salary for high-cost insurance. We had documented evidence that this was not true. Our data showed our teachers were making about the same salaries, or more, as teachers in districts with less expensive insurance."

The district's fund balance would have been jeopardized in a few years without lower insurance costs, according to Nikolay. Some layoff notices had already been issued to school staff. But the thought of colleagues losing their jobs, or students being forced into larger classes, did not seem to bother union leaders, he said.

"There were some who said, 'That's okay, if people have to be laid off, do what you have to do, but we want to keep the health benefit the way it is,'" Nikolay said.

"There were some who said, 'That's okay, if people have to be laid off, do what you have to do, but we want to keep the health benefit the way it is.'"
– Former Supt. Bernie Nikolay

The school board eventually filed for mediation, and then arbitration. The case eventually cost the district about $80,000 in legal fees, according to Nikolay, but the arbitrator ruled in favor of the school district.

The new insurance saved the district about $450,000 in the next school year.

"The case we were able to make was that reduction in staff was happening in districts all around us," Nikolay said. "The arbitrator looked at other districts and agreed with us. It was not just about our ability to pay now, but the future should be considered. That was a significant part of his decision."

Last year Milton was one of the many districts to grant last-minute contract extensions to their teachers unions, just before Act 10 went into effect.

With the threat of Act 10 looming, the union made "significant concessions that saved the district a lot of money," Nikolay said.

"It was like a different world," said Nikolay, who made it clear that while he appreciates some of the opportunities provided by Act 10, he does not approve of the Walker administration's budget cuts for public education. "It was what they were willing to throw out from their old contract, as long as they still got a contract.

"I think unions needed some changes as far as collective bargaining. Unions exist to benefit teachers, but that's not what schools are supposed to be about."

JANESVILLE: UNION FAILS TO RESPOND TO GROWING DEFICIT

There were definitely mixed feelings on the **Janesville** school board when it voted 5-4 to approve a lucrative four-year contact with its teachers union in 2010.

Despite a budget deficit at the time of roughly $2 million, the contract gave teachers annual raises, added another expensive lane to the teacher salary chart, and did not require teachers to pay more for insurance or pension costs, school board **President Bill Sodemann** told EAG.

The contract even gave the union the right to reopen negotiations on salary if the rate of inflation went higher. But it stated that any new negotiations would have to result in increased compensation for teachers, not less, Sodemann said.

That contract was approved after a long and difficult period of negotiations.

Sodemann believes the majority of board members may have agreed to the expensive pact because the union had filed for arbitration, and a defeat in that process would have meant even greater costs. He also believes some board members were attracted to the idea of a longer-term deal to maintain labor peace for a few years.

“Under normal circumstances we always settle on a two-year contract,” said Sodemann, who voted against the contract. “In my opinion this deal was too lucrative, even compared to when times were good.”

> *“I am so sick and tired of having to lay off teachers who are let go because of their lack of longevity, rather than skill.”*
> **– Board President Bill Sodemann**

The school board soon learned what it had gotten itself into. About a year later the rate of tax revenue slowed considerably, leaving the district with a projected $6 to $9 million budget deficit. The board quickly contacted the union, in hopes of reopening negotiations to find some savings.

The union said “no” several times over the next few months. That played a big role in forcing the district to eliminate roughly 70 teaching positions and increase class sizes last fall. A total of 100 employees lost their jobs, according to Sodemann.

At one point the district offered the teachers union a deal. It guaranteed no layoffs, and no increases in employee insurance costs, if the union would agree to allow members to pay more toward their pensions over the next few years, Sodemann said. The offer fell on deaf ears.

Late last year the teachers union finally agreed to discuss the situation with the board. But union negotiators only offered minor changes to their health insurance plan, and those were conditional on a school board promise not to make any major changes in salary, benefits or policies when the contract expires in 2013, according to Sodemann.

The board refused to be handcuffed in the future, so no agreement was reached. Now there’s a standoff, with the likelihood for more layoffs and student program cuts this fall, according to school staff. The board will probably also have to dip into its fund balance to make ends meet.

“I am so sick and tired of having to lay off teachers who are let go because of their lack of longevity, rather than skill,” Sodemann said, regarding the contractual union layoff rule of last in/first out. “I don’t think (the union) ever cared about the numbers of teachers employed – just how much they make. And we’re talking about the union leadership, the ones who are the most safe and secure from layoffs.”

WEST BEND: WITHOUT UNION HELP, SCHOOL RELIES ON ACT 10

Difficult contract negotiations had become the norm in recent years in the **West Bend** school district.

The school board and teachers union didn’t settle on the terms of a 2009-11 collective bargaining agreement until 2010, and the district didn’t get the type of financial concessions it hoped for from the union.

The union did accept a zero percent salary increase for the first year of the contract, helping the district save about $800,000 per year, according to **Valley Elliehausen**, human resources director for the district.

Negotiations began for a 2012-13 collective bargaining agreement in April 2011, but failed to produce positive results.

The school board, facing a $6 million deficit and the possibility of laying off 37 teachers, asked the union for the standard 12.6 percent insurance contribution and 5.8 percent pension contribution, a freeze in step raises, and control over what college courses teachers could take to advance on the salary schedule, according to Elliehausen.

The board also hoped to save money on a costly early retirement program by moving the eligibility age from 55 to 57, eliminating new employees, and reducing the length of post-retirement insurance coverage by a year.

"How Act 10 has affected us is that it's created that flexibility. Without a collective bargaining agreement, we are allowed to do things we weren't before."
– Superintendent Ted Neitzke

The union refused to budge, and collective bargaining came to an abrupt halt.

"They were willing to meet, but not to accept the necessary concessions to assist in the elimination of the $6 million shortfall the district was facing for 2011-12," Elliehausen said.

Negotiations with local union officials "were not contentious," according to school officials. They believe the union's stubborn refusal to accept concessions came at the direction of state WEAC officials.

"A lot of the pressure during negotiations really comes from WEAC, down through their Uniserv directors," Elliehausen said.

In the past, the collapse of the negotiations could have meant big trouble for a school district with a serious deficit. The two sides might have ended up in arbitration, and a union victory at that level might have increased labor costs even more.

But Act 10 had recently been enacted, providing a lifeline for a school district that was hung out to dry by WEAC.

The board made several cost-cutting measures, forcing teachers to pay the standard 12.6 and 5.8 percent contributions for health insurance and pensions, canceling step raises and adjusting the early retirement program.

As a result, the district is now facing a much more manageable $500,000 deficit, with further plans to economize in the works.

The school board also made several non-financial changes geared toward providing better instruction for students. They scrapped the old union system of laying off teachers according to seniority, made it easier to discipline and dismiss problem teachers, and claimed the right to appoint the chairman or chairwoman of academic departments, rather than allowing teachers to elect them.

"How Act 10 has affected us is that it's created that flexibility," West Bend **Superintendent Ted Neitzke** told EAG. "Without a collective bargaining agreement, we are allowed to do things we weren't before."

SCHOOL DISTRICT SAVINGS UNDER ACT 10 (2011-2012)

Altoona	$472,500
Appleton	$10,100,000
Ashland	$377,979
Ashwaubenon	$900,000
Baraboo	$1,628,400
Beloit	$2,508,000
Bonduel	$400,000
Brodhead	$500,000
Chippewa Falls	$2,250,000
Cochrane-Fountain	$381,000
Columbus	$375,000
Deerfield	$267,200
DeForest	$900,000
Depere	$1,172,000
Dodgeland	$260,000
Durand	$817,300
Eau Claire	$3,500,000
Edgerton	$1,088,400
Elmbrook	$954,000
Evansville	$654,900
Fond du Lac	$4,360,000
Germantown	$1,500,000
Green Bay	$11,000,000
Green Lake	$1,300,000
Hartford	$795,079
Hartland-Lakeside	$690,000
Holmen	$1,800,000
Horicon	$297,700
Hudson	$2,726,900
Janesville	$3,100,000
Kaukauna	$1,900,000
Kettle Moraine	$1,350,000
Kimberly	$2,120,000
Kohler	$112,000
La Crosse	$3,700,000
Lake Country	$327,000
Lakeland	$543,000
Little Chute	$1,000,000
Madison	$15,500,000
Manitowac – City	$100,000
Marshfield	$850,000
Menasha	$1,255,300
Menomonee Falls	$2,400,000
Mequon - Thiensville	$49,000
Merrill	$1,300,000
Milton	$1,100,000
Monona Grove	$2,085,400
Neenah	$3,400,000
Oconto Falls	$1,000,000
Omro	$375,400
Onalaska	$1,500,000
Oshkosh	$5,200,000
Plymouth	$1,100,000
Portage	$1,000,000
Prescott	$500,000
Pulaski	$1,304,700
Racine	$19,200,000
Reedsburg	$1,350,000
Ripon	$1,000,000
Sauk Prairie Eagle	$900,000
Shawano	$811,100
Sheboygan	$6,650,000
Sheboygan-County	$600,000
Slinger	$1,350,000
Sparta	$1,200,000
Stratford	$232,000
Sturgeon Bay	$1,172,000
Superior	$1,549,100
Tomah	$1,009,700
Tomorrow River	$400,000
Two-Rivers	$1,500,000
Viroqua	$359,200
Watertown	$2,200,000
Waukesha	$1,100,000
Waupun	$2,300,000
Wauwatosa	$4,000,000
West Allis	$5,900,000
West Salem	$825,000
Weston	$110,900
Whitefish Bay	$983,200
Whitewater	$616,900
Whitnall	$950,000
Wisconsin Dells	$900,000

Source: MacIver Institute

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