

# Senate Bill 5: Frequently Asked Questions

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## What is collective bargaining?

In 1983, the Ohio General Assembly passed a law allowing government employees to negotiate with their respective public employer as a “bargaining unit” on issues related to wages and working conditions. The employees are represented in that process by a union, which typically seeks a three-year employment contract, known as a Collective Bargaining Agreement (CBA).

## What is the problem with Ohio’s collective bargaining law?

Since it was passed nearly 30 years ago, government employee unions have successfully bargained for a wider and more expensive array of fringe benefits, including automatic pay raises for longevity, excessive paid leave and generous health and retirement packages at little-to-no employee cost.

## How does this compare with the private sector?

Public union wages outpaced Ohio’s median household income by as much as 21% in the past decade.<sup>1</sup> Beyond compensation, however, the benefit packages available to public employees far exceed those offered by private sector companies. The non-partisan Cato Institute found that government workers have 70% better benefit packages than employees in the private sector, particularly in the area of health insurance, pensions and paid leave.<sup>2</sup>

## Are unsustainable benefit costs the only problem?

No. Many bargaining agreements also allow unions to influence basic management decisions - such as staff structure, work assignments and cost-controls. As a result, public employers lack the critical flexibility to adapt when tax revenues decline, leaving many of them with no other option than to lay off public employees, including teachers, fire fighters and police officers.

## What exactly does Senate Bill 5 do to address these problems?

Much like Ohio’s 1983 labor law, Senate Bill 5 allows state and local government employees to collectively bargain on issues related to the “wages, hours, terms and conditions” of their employment. However, the bill clarifies that traditional management decisions - such as staff structure, work assignments, employee qualifications, benefit plans and cost-controls - are not subject to union control or negotiation. Senate Bill 5 also asks that salaries be based on performance and that public employees pay a modest 15% of their health insurance premium (half the amount the average private sector worker pays). The new law also allows up to six weeks of paid vacation for employees with less than 20 years of service, caps career vacation pay-outs at a maximum of 15 weeks instead of 18, reduces annual sick leave for most employees from three weeks to two weeks and stops the practice of pension pick-ups (see “What are pension pick-ups?” on page 4).

## Are you suggesting cuts to public employee pay or benefits?

No. That’s one of the scare tactics government unions are using to turn people against these reforms. Senate Bill 5 only requires that performance be a factor in compensation and that employees pay a small but fair share (15%) of their health insurance premium.

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**How would greater flexibility help public employers prevent layoffs?**

In the private sector, families and businesses are able to restructure their budgets under difficult economic conditions. They give up perks, eliminate waste and reduce spending until profitability is restored. Companies might decide to consolidate services or reassign employees to avoid layoffs. That kind of flexibility is almost non-existent under today's collective bargaining agreements. Many government union contracts are designed to keep public employers – and taxpayers – locked into rigid, often costly workforce demands, leaving employers with few options. Restoring flexibility will actually save jobs.

**How did we get to this point?**

Simply put, taxpayers got stuck with agreements they can't afford because too many elected officials caved to the political influence of government labor unions. More importantly, Ohio has lost hundreds of thousands of jobs and experienced the nation's third largest population decline, resulting in dramatically lower tax revenues. State and local governments are struggling to fund even the most basic services, while paying for the ever-increasing demands of their workforces. Ohio currently has the seventh-highest tax burden in the nation, largely because the cost of government exceeds the ability of taxpayers to fund it.

**How many workers will Senate Bill 5 affect?**

Ohio's collective bargaining law currently applies to approximately 359,500 employees, or 6.5% of the state's 5.5 million workers - hardly the massive "attack on the middle class" opponents would have you believe.<sup>3</sup>

**If these reforms impact only 6.5% of Ohio's workforce, are the savings worth the controversy?**

The Ohio Department of Administrative Services found that just three of the many benefit reforms included in Senate Bill 5 would have saved state government at least \$191 million and millions more for local governments. As an example, The Columbus Dispatch reports, "Central Ohio's largest government entities would have spent about \$74 million less on employees' health-care and pension benefits last year if Senate Bill 5 had been in effect."<sup>4</sup>

**Are you suggesting that public workers are to blame for Ohio's budget deficit?**

No. Public workers are the victims of bad collective bargaining agreements made over the past 27 years by politicians who failed to say no. Unfortunately, the unsustainable cost of those agreements is only one part of a much larger fiscal crisis facing our state and local governments.

**Why do opponents say this is an attack on the middle class?**

Opponents like to use class warfare rhetoric to incite an emotional response. If Senate Bill 5 is an attack on anything, it is the reckless policies that have led to an ever-increasing cost of government. The Columbus Dispatch wrote in an editorial, "The idea that the bill is an attack on Ohio's middle class is one being repeated not only by [former Governor Ted] Strickland but by other Democratic leaders and officials of the state's public-sector unions. The assertion is a flat contradiction of reality. Not only are the public-sector workers affected by Senate Bill 5 not representative of the majority of Ohio's middle class, but the comfortable wages, automatic raises, benefits, pensions, job protections, sick-day payouts and negotiating power enjoyed by many of these public-sector workers comes at the expense of the vast majority of Ohio's middle-class taxpayers. Most of these taxpayers have nothing remotely like these benefits nor the economic security that the public sector takes for granted and regards as a right."<sup>5</sup>

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### What are step increases and why are they a problem?

Government union contracts often demand that public workers get automatic pay raises for longevity, also known as “step increases.” These step increases are in addition to any other negotiated raise or cost of living increase. As well, these salary hikes are not given for good work performance, but simply for staying in a job for a particular amount of time. In fact, approximately 46 percent of state government workers received a longevity pay increase in the last two-year operating budget – in addition to annual cost of living increases. The median state government worker adds \$748,101 to his lifetime pay only through longevity increases, creating a substantial boost to his or her pension.<sup>6</sup> A survey conducted for the Thomas B. Fordham Institute in January found that seven of 10 Ohio school superintendents support eliminating automatic step increases in teacher salaries.<sup>7</sup>

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### What is the problem with current leave time policies?

Under the current system, government workers can collect large amounts of unused vacation and sick leave, which is later paid out in the last year of their employment. More than 900 public employees in the City of Cincinnati are eligible for at least six months of extra pay when they retire, costing taxpayers more than \$93 million. More than 100 employees have racked up an entire year, and one employee will be paid more than \$400,000 just to “cash out” unused leave time.<sup>8</sup> Making the cost factor worse for taxpayers, many government workers receive sick leave benefits that amount to four times more than those received by private sector employees.

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### What is the problem with health care benefits under the old law?

Under today’s collective bargaining agreements, many government workers pay little to no cost for their health care coverage. The State Employment Relations Board found that the average city worker in Ohio pays 8.3 percent toward a family health insurance plan.<sup>9</sup> Nothing in Senate Bill 5 requires that benefits be eliminated or reduced, only that workers pay a modest, fair share of 15 percent toward their insurance premium (half the average private sector rate of 31 percent).

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### What is “last hired, first fired”?

In the event of a lay off, many union contracts contain special protections for senior level employees. They require newer workers (those “last hired”) to be let go first (“first fired”), regardless of work performance, training and other factors. These types of contracts often force employers to lay off higher numbers of lower-salary employees, putting students, safety and services at risk. In the context of public education, a study by the Bill and Melinda Gates Foundation found that seniority protections disproportionately hurt high-poverty schools, as those schools typically have more junior-level teachers.<sup>10</sup> Additional research indicates that seniority protection, rather than performance-based staffing, hurts student achievement. A Fordham Institute survey of 246 Ohio school superintendents found eight of 10 oppose seniority-based job protections, favoring reforms that make it “easier to terminate unmotivated or incompetent teachers – even if they are tenured.”<sup>11</sup>

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## Why does Senate Bill 5 deal with the issue of privatization?

Prior to Senate Bill 5, many collective bargaining contracts prohibited government employers from exploring public-private partnerships to save money. This denied taxpayers lower-cost options for non-government functions, such as busing or food service, despite the fact these might be done more efficiently by private sector companies. Senate Bill 5 only clarifies that public employers can make certain management decisions without the obstruction of a union contract.

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## How do public employee pensions compare to the private sector?

Retirement benefits for many state and local government workers far exceed the average public sector pension plan. According to a USA Today report, “Retired government workers are twice as likely to get a pension as their counterparts in the private sector, and the typical benefit is far more generous.”<sup>12</sup> In fact, a recent national survey found, “Most voters believe those who work for the government get better retirement benefits than those who work for private companies and also think it’s unlikely their state can afford the benefits given to state workers.”<sup>13</sup> Ohio has the nation’s fourth highest public pension burden<sup>14</sup>, and Cincinnati ranks near the top of cities with the largest pension deficits – at more than \$1 billion.<sup>15</sup> The Cincinnati Enquirer reports, “Many top city leaders attribute the deep financial hole to Cincinnati being too generous for too long with its 80-year-old retirement plan... [T]hey point to policies that allow some workers to retire with pensions of up to 90 percent of their three highest years’ salary, guaranteed 3 percent annual increases, lifetime health coverage at negligible cost and other benefits far beyond those found in most private and public retirement plans.”<sup>16</sup>

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## What does Senate Bill 5 do to address the issue of public pensions?

Senate Bill 5 does not contain pension reforms beyond eliminating the practice of pension pick-ups. State lawmakers are considering pension reform as part of a separate legislative effort.

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## What are pension pick-ups?

Public employees are required to pay 10 percent of their salary toward one of Ohio’s five public pension plans, but collective bargaining agreements often demand that taxpayers “pick up” the employee’s pension contribution in addition to the 14 percent the employer is already required to pay (with tax dollars). This arrangement allows many government workers to get a very generous retirement package at little to no personal cost – a rare if non-existent benefit in the private sector, where half as many workers even get a pension. A recent Columbus Dispatch analysis found that eliminating pension “pick-ups” would save Columbus taxpayers \$41.2 million annually. The pension pick-up benefit is also costing taxpayers in other ways.<sup>17</sup> Steven Herwat, deputy mayor of Toledo, told a legislative committee that his city will eliminate its residential street-repaving program in 2011 just to pay for required employee pension pick-ups.<sup>18</sup>

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**Does the new law allow public employers to cancel agreements?**

Senate Bill 5 is not retroactive, so existing collective bargaining agreements would remain in effect until they expire. New agreements cannot be terminated, but they can be suspended or reopened under a fiscal emergency (as declared by the Auditor of State). Providing this flexibility will ensure that public officials have every tool at their disposal to regain fiscal stability so that mass layoffs are not the only option in balancing budgets.

**Would public employees lose jobs under Senate Bill 5?**

Senate Bill 5 is designed to save jobs and protect services by giving public employers the tools to restructure their operating costs when revenues get tight. Under the current law, many collective bargaining agreements are so restrictive that public employers have no other option but to lay off workers under dire financial conditions.

**Won't merit pay create the potential for bias or discrimination against employees?**

All public employees are protected equally by civil rights and civil service laws. These laws are designed to ensure that employment decisions are based on merit rather than political considerations, and they prevent discrimination based on an employee's age, race, religion or political affiliation. These protections have always applied to public employees, even those covered by a collective bargaining agreement.

**What will Senate Bill 5 mean for teachers?**

The bill is not retroactive, and it allows current teacher contracts to continue until they expire. Upon renewal of a new bargaining agreement, districts would not be required to provide automatic "step increases" (or pay raises based only on longevity). In addition to the benefit reforms applicable to all public employees, Senate Bill 5 requires that teacher salaries be determined by quality and performance standards – a goal President Barack Obama set out in his national education policy in 2009. No salary reductions are mandated by Senate Bill 5, and teachers would get up to 10 days of sick leave per year, as determined by the local board of education.

**Does Senate Bill 5 keep police and fire fighters from bargaining for safety equipment?**

Not at all. In fact, state legislators took extra steps to clarify in the bill that safety equipment can be negotiated under "terms and conditions" of employment.

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## Why does Senate Bill 5 prohibit striking?

Since 2000, less than one percent of contract disputes resulted in a strike. The tactic is rarely used to settle a dispute, and, more importantly, it carries the potential to put schools, safety and services at risk. Federal government employees have long been prohibited from striking, a policy upheld by presidents from Franklin Roosevelt to Barack Obama.

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## What does Senate Bill 5 do for government employees who don't want to join a union?

Senate Bill 5 clarifies that government employees cannot be forced to join a union. If employees are not happy with their union representation, the bill contains a provision allowing 30 percent of a bargaining unit to petition for a decertification vote. The vote to decertify would require a majority. Senate Bill 5 also clarifies that non-union members do not have to pay a "fair share" fee for the union's effort to negotiate and enforce a contract on their behalf. Finally, the bill prohibits public employers from automatically withdrawing payroll funds (tax dollars) for deposit into a union political action committee, unless an employee gives written authorization.

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## How were contract disputes resolved before Senate Bill 5?

The current bargaining process requires contract disputes to be resolved through an unaccountable third-party arbitrator, or mediator, typically brought in from another locality. The arbitrator is not required to take into consideration the financial ability of the state or local government to pay for the demands of a public employee union.

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## How does the dispute resolution process change under Senate Bill 5?

The goal of the dispute resolution process under Senate Bill 5 is to give taxpayers a seat at the table in the negotiating process, to consider their ability to fund the demands of a new collective bargaining agreement and to hold their elected representatives accountable for how tax dollars are spent. Senate Bill 5 changes the process to allow both sides of a dispute (the employer and the bargaining unit) to work with a fact-finder on a resolution. If the proposed resolution is not accepted by either side, both sides would submit a final, "best offer." These offers are made publicly available for review before the governing authority responsible for the bargaining unit (i.e. school board, city council, county commission, etc.) schedules a public hearing. After the public hearing, the governing authority then chooses between the two offers. This process allows taxpayers to hold both sides accountable by requiring all demands to be disclosed and transparent. The process also empowers taxpayers by making their elected representatives accountable for the outcome. Finally, the process forces both sides to come to the middle with their final offers, knowing that fairness, practicality and affordability will influence the final decision. If the governing authority chooses the higher-priced offer or if the final agreement cannot be funded without additional tax revenues, Senate Bill 5 provides for a ballot referendum on the dispute so taxpayers can decide for themselves whether they want to accept the final contract.



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