

SC98412

IN THE SUPREME COURT OF MISSOURI

MISSOURI NATIONAL EDUCATION ASSOCIATION, *et al.*,

Respondents,

v.

MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS, *et al.*,

Appellants.

Appeal from the Circuit Court of St. Louis County, Missouri
The Honorable Joseph Walsh III

**AMICUS CURIAE BRIEF OF
THE ECONOMIC POLICY INSTITUTE IN SUPPORT OF
RESPONDENTS MISSOURI NATIONAL EDUCATION ASSOCIATION, *et al.***

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INTEREST OF AMICUS AND INTRODUCTION

The Economic Policy Institute (EPI), a non-partisan, not-for-profit Washington, D.C.-based think tank specializing in economic analysis of issues impacting working women and men, files this brief amicus curiae with the consent of the parties in support of Plaintiffs/Respondents Missouri National Education Association, et al.¹

EPI is an internationally known resource for information on economic issues as they impact working women and men. EPI's expert research is regularly cited by scholars, journalists, policymakers, and others as they analyze and debate economic trends. Since its founding, EPI's research has documented the importance of collective bargaining to working people and to the economy. EPI's research has been used to support policies and legislation to strengthen workers' collective bargaining rights and to oppose policies and legislation weakening these rights.

JURISDICTIONAL STATEMENT

Amicus EPI agrees with the jurisdictional statement in the State of Missouri's (State's) opening brief.

¹ EPI Senior Fellow Lynn Rhinehart and EPI Economist Monique Morrissey provided substantial assistance in the preparation of this brief.

FACTUAL BACKGROUND

Amicus EPI agrees with the statement of facts in Plaintiffs/Respondents' brief.

POSITION OF ALL PARTIES TO FILING OF THIS BRIEF

All parties to this appeal consent to the filing of this brief.

POINTS RELIED ON

I. **HB 1413 WILL DEPRIVE MISSOURI WORKERS, AND PARTICULARLY WOMEN WORKERS AND WORKERS OF COLOR, OF THE FULL BENEFITS OF COLLECTIVE BARGAINING**

Barbara Biasi, et al., *Flexible Wages, Bargaining, and the Gender Gap*, The National Bureau of Economic Research, Working Paper #27894 (October 2020).

Thomas Kochan, et al., *Voice Gaps at Work, Options for Closing Them, and Challenges for Future Actions and Research*, MIT Sloan School of Management, Institute for Work and Employment Research working paper (June 2018).

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Aaron Sojourner, *Unionized Workers are More Likely to Assert Their Right to a Safe and Healthy Workplace*, The Conversation (September 2, 2020).

II. **HB 1413 WILL DEPRIVE EMPLOYERS, TAXPAYERS, AND COMMUNITIES OF THE FULL BENEFITS OF COLLECTIVE BARGAINING**

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Aaron Sojourner, et al., *The Relationship Between Union Membership and Net Fiscal Impact*, IZA Institute of Labor Economics DP #11310 (December 6, 2018).

U.S. Department of Labor, Bureau of Labor Statistics, Economic New Release – Annual Total Separations (March 2020).

ARGUMENT

House Bill 1413 (HB 1413) imposes multiple burdensome requirements and restrictions on public sector unions in Missouri that will weaken collective bargaining by public service workers. HB 1413 deprives public sector unions of the ability to bargain over promotions, transfers, discipline, discharge, assignments, scheduling, work rules and other issues important to public employees. §105.585(1), RSMo. It requires public sector workers to undergo recertification elections every three years. §105.575.12, RSMo. In order to prevail in an election, a public sector union must receive votes from more than 50 percent of eligible voters, rather than 50 percent of those who vote. *Id.* Unions must pay the election costs on a sliding scale basis based on their size, up to \$2,000. §105.575.15, RSMo. The recertification election requirement is redundant and wasteful, given the availability of a decertification election if workers are dissatisfied with their union. §105.575.9-.11, RSMo. Collective bargaining agreements can be unilaterally modified by public agencies, and HB 1413

eliminates any procedure for resolving bargaining disputes. §§105.580.6, 105.585(6), RSMo. These and numerous other provisions severely undermine the collective bargaining process in ways that deprive public service workers of the full benefits of union representation and weaken public sector unions and their ability to advocate for and represent public service workers.

Defendants/Appellants have tried to justify these burdens and restrictions on collective bargaining by making assumptions about public sector unions that are incorrect. EPI submits this brief to describe the many ways in which HB 1413, if allowed to stand, will harm Missouri workers, city and state employers, and communities. HB 1413 will undermine the ability of public sector unions to win health care, job safety improvements, paid sick days, and other important benefits for Missouri families. Missouri's public employees already rank 50th in the nation in compensation². HB 1413 will depress public employee wages even more, and worsen the pay gap experienced by women workers and workers of color. It will undermine the state's ability to attract and retain a quality civil service workforce, lower state tax revenues, and increase demand for public benefits. Finally, contrary to the assertions of Defendants' expert Dr. Daniel Shoag, because

² CBIZ Talent and Compensation, *Compensation and Benefits Study Report*, State of Missouri (April 26, 2019).

turnover in the public sector is relatively low – roughly half of the turnover rate in the private sector -- regular recertification elections are unnecessary and wasteful.

The court should affirm the lower court’s ruling and permanently enjoin HB 1413.

I. HB 1413 WILL DEPRIVE MISSOURI WORKERS, AND PARTICULARLY WOMEN WORKERS AND WORKERS OF COLOR, OF THE FULL BENEFITS OF COLLECTIVE BARGAINING

A. Benefits of Collective Bargaining for All Workers.

It is well established that unions improve pay, benefits, and working conditions not only for workers covered by a union contract but non-union workers as well. The improvements achieved by unions and collective bargaining are crucial to the economy, because they put additional money in the pockets of workers and thereby increase consumer spending. Unions help city, state, and federal governments because unionized workers pay more in taxes and utilize less in public benefits compared to non-union workers. And unions are critical to addressing income inequality, which has worsened in the United States over the past several decades.

Leading economic experts point to the decline of unionization as a key contributor to the wage stagnation and persistent income inequality that has burdened the U.S. economy for decades. Former Treasury Secretary Larry Summers recently wrote that a decline in unionization and worker power explains

the stubbornly flat wages that workers have been experiencing since the 1970s³. For this reason, when major labor law reform was debated in Congress in 2009, more than 200 leading economists called for passage of the legislation because of the importance of increasing workers' bargaining power to our country's economic health⁴.

Not surprisingly, given the importance of unions to economic fairness, public support for unions is at its highest level in years, with young workers voicing the most support for unions, contrary to the assertion of Defendants' expert, Dr. Shoag⁵. Nearly half of all non-union workers say they would join a union, up 50 percent from when a similar survey was done 30 years ago⁶.

³ Anna Stansbury, et al., *Declining Worker Power and American Economic Performance*, The Brookings Institute (March 18, 2020).

See also Henry Farber, et al., *Unions and Inequality Over the Twentieth Century: New Evidence from Survey Data*, Princeton University, Working Paper #620, (May 2, 2018).

⁴ Statement from Leading American Economists on the Employee Free Choice Act (Economic Policy Institute, June 2009), https://www.epi.org/publication/statement_on_efca/.

⁵ Megan Brennan, *At 65%, Approval of Labor Unions in U.S. Remains High*, news.gallup.com (September 3, 2020).

⁶ Thomas Kochan, et al., *Voice Gaps at Work, Options for Closing Them, and Challenges for Future Actions and Research*, MIT Sloan School of Management, Institute for Work and Employment Research working paper (June 2018).

Unions raise standards for all workers, because when unionized workers achieve improvements in wages and benefits at their workplaces, non-union employers raise their wages and benefits to remain competitive and retain employees⁷. Indeed, a 2017 report found that had unions remained at their 1979 strength, weekly wages for **non-union** men would be five percent higher, and weekly wages for non-union men without a college degree would be eight percent higher⁸.

Workers covered by a union contract earn on average 11.2 percent more than workers who are not covered by a union contract.⁹ The union advantage is even more pronounced for workers of color. Black workers represented by a union earn 13.7% more than their non-union peers¹⁰. Hispanic workers who are represented

⁷ Jake Rosenfeld, et al., *Union Decline Lowers Wages of Nonunion Workers: The Overlooked Reason Why Wages are Stuck and Inequality is Growing*, Economic Policy Institute (August 30, 2016).

⁸ Josh Bivens et al., *How Today's Unions Help Working People*, Economic Policy Institute, (August 25, 2017).

⁹ Celine McNicholas, et al., *Why Unions Are Good for Workers – Especially in a Crisis Like COVID*, Economic Policy Institute (August 25, 2020).

¹⁰ *Id.*

by a union earn 20.1% more than their non-union peers¹¹. The union wage premium is even higher for low wage workers¹².

Public sector workers overall earn less than comparably educated private-sector workers, earning on average 14 percent less¹³. Even so, union-represented employees of state and local governments earn higher wages than those not represented by unions. Unionized women in the public sector make on average 9.7-12.7 percent more than their non-union counterparts, and unionized men working in the public sector make on average 9.2 to 12.1 percent more than their non-union counterparts.¹⁴ A recent study of teacher pay compared to pay of

¹¹ *Id.*

¹² John Schmitt, *The Union Wage Advantage for Low-Wage Workers*, Center for Economic and Policy Research (May 2008).

¹³ Jeffrey Keefe, *Public-Sector Workers are Paid Less Than Their Private Sector Counterparts – and the Penalty is Larger in Right-to-Work States*, Economic Policy Institute (January 14, 2016). A 2019 study commissioned by the state of Missouri confirms that pay for public sector workers in Missouri is low – low when compared with jobs in the private sector, and low when compared with other states. CBIZ Talent and Compensation Solutions, *supra* note 2. Indeed, Missouri ranked dead last among the 50 states in pay. *Id.* As with many other states, the overall compensation picture brightens when employee benefits, and particularly health insurance, are factored into the mix. By adding benefits, Missouri goes from a 15-point deficit of pay being below the market – benefits are 10 points higher. By weakening public sector unions, HB 1413 deprives public service workers in Missouri of a proven way of winning better pay.

¹⁴ Celine McNicholas et al., *Supreme Court Decision in Janus Threatens the Quality of Public-Sector Jobs and Public Services*, Economic Policy Institute (June 13, 2018).

similarly educated professionals in the private sector affirms that teachers in states with weak or no collective bargaining rights have larger pay gaps (-20.2%) than teachers in 34 states and the District of Columbia that have comprehensive bargaining rights (-17.4%)¹⁵.

Unionized workers of color in the public sector also benefit from the union wage premium. Within the state and local government workforce, wages for black workers are between 10.4 percent and 12.4 percent higher on average than wages of nonunionized black workers. The wages for Hispanic and Asian workers in state and local government get a particularly large boost from union representation—by between 16.0 percent and 17.9 percent for Hispanic workers and between 16.6 percent and 17.8 percent for Asian workers¹⁶.

As or more important than the union wage premium are the important benefits that unions are able to win for workers and their families. Workers covered by a union contract are far more likely to be provided employer-sponsored healthcare and are far more likely to be covered by employer-sponsored retirement plans. Employer-provided health insurance is a standard feature of collective bargaining agreements – so much so that 94 percent of workers covered by a

¹⁵ Sylvia Allegretto, et al., *Teacher Pay Penalty Dips but Persists in 2019*, Economic Policy Institute (September 17, 2020).

¹⁶ McNicholas, et al., *supra* n. 14.

collective bargaining agreement have employer-provided health insurance, compared to just 67 percent of non-union workers¹⁷.

The pattern holds in the public sector, where unionized men and women working in the public sector are significantly more likely to have employer-provided health insurance than non-union workers (78.1 percent vs. 62.4 percent for women and 86.0 percent vs. 74.4 percent for men)¹⁸. The gender gap in health insurance coverage is also significantly smaller – 33 percent -- in the public sector for unionized workers.¹⁹

Unionized workers are far more likely to have access to employer-paid sick leave. Ninety-one percent (91%) of unionized workers have paid sick leave, compared to only 73 percent of non-union workers²⁰. Almost all public sector workers who are covered by a union contract have access to paid sick leave – 97 percent – compared to 86 percent of public sector workers without union representation²¹.

¹⁷ Elise Gould, *Union Workers Are More Likely to Have Paid Sick Days and Health Insurance*, Economic Policy Institute (March 12, 2020).

¹⁸ Katherine Gallagher, et al., *Public Sector Unions Promote Economic Security and Equality for Women*, National Women’s Law Center (November 2015).

¹⁹ *Id.*

²⁰ McNicholas, et al., *supra* n. 14.

²¹ *Id.*

Similarly, workers who are covered by a union contract are much more likely to receive paid parental leave. Twenty-two percent of unionized workers receive paid family leave, compared to 18 percent of non-union workers. In the public sector, the difference is 28 percent for unionized workers and 23 percent for non-union workers²².

Unionized workers are far more likely to be covered by an employer-provided retirement plan. Ninety (90) percent of unionized workers are covered by an employer-provided retirement plan, compared to 75 percent of workers overall²³. The difference when it comes to defined benefit plans, which guarantee a monthly payment, is stark – 74 percent of unionized workers compared to 15 percent of nonunion workers have a defined benefit plan²⁴. Women in unions are 24 percentage points more likely (73.1% compared to 49.1%) than non-union women to be covered by an employer-sponsored retirement plan²⁵. Unions are

²² Bureau of Labor Statistics, U.S. Department of Labor, *National Compensation Survey* (March 2019).

²³ Bivens, et al., *supra* n. 8.

²⁴ *Id.*

²⁵ John Schmitt et al., *Women Workers and Unions*, Center for Economic and Policy Research (December 2013).

also key to negotiating important benefits such as professional development and training²⁶.

B. Unions Help Shrink the Wage Gap for Women Workers and Workers of Color

By negotiating wages for various jobs according to neutral, objective criteria, and by promoting wage transparency, union help to prevent and reduce pay discrimination in the workplace, which affects millions of women workers and workers of color. According to U.S. Census Bureau data, overall women earn 82 cents for every dollar that men earn²⁷. This pay gap has persisted despite federal and state laws prohibiting pay discrimination in the workplace. The pay gap results in significantly lower earnings over a working woman's career compared to a man's. According to a new report, women earn \$10,157 less annually in median earnings, which translates into \$406,280 less in earnings over the course of a 40-year career²⁸.

²⁶ See Bivens, et al., *supra* n. 8.

²⁷ National Women's Law Center Fact Sheet, *The Wage Gap: The Who, How, Why and What to Do* (October 2020).

²⁸ *Id.*

Research establishes that the pay gap at unionized workplaces is significantly smaller²⁹. While the gender wage gap for non-union workers is 20 cents for full-time workers, the wage gap for union members is 12 cents³⁰.

A recent study shows how Wisconsin increased gender pay gaps by restricting public sector bargaining in 2011³¹. Until then, Wisconsin had *zero* gender gap in public school teacher pay. In 2011, Wisconsin passed what was known as “Act 10”, which limited public sector collective bargaining, required annual recertification, and prohibited automatic dues collection. As a result, the pay of female teachers fell behind male teachers. With unions no longer able to advocate for their members, the distribution of teacher pay in Wisconsin began to resemble the pay penalties women face in the non-unionized private sector. The difference was worse for young teachers. Wisconsin’s experience powerfully illustrates the harmful impact of eroding collective bargaining in the public sector.

Nationally, the difference in the pay gap between unionized and non-union workers is even more pronounced for women workers of color. The wage gap

²⁹ David Madland et al., *Combatting Pay Gaps with Unions and Expanded Collective Bargaining*, Center for American Progress Action Fund (June 2018).

³⁰ National Women’s Law Center, *supra* n. 27.

³¹ Barbara Biasi, et al., *Flexible Wages, Bargaining, and the Gender Gap*, The National Bureau of Economic Research, Working Paper #27894 (October 2020). <https://www.nber.org/papers/w27894>.

between African American women and white men who work full time is 27 cents for union workers, but 34 cents for non-union workers³². The difference is even greater for Hispanic women – 26 cents for unionized workers compared to 40 cents for non-union workers³³.

Workers of color also face pay discrimination in the workplace. Black, Native Hawaiian and Pacific Islander, Native, and Hispanic women experience greater wage gaps – 63 cents, 63 cents, 60 cents, and 55 cents for every dollar paid to white, non-Hispanic men, respectively, than their white, non-Hispanic counterparts³⁴.

Here again, unions help close the wage gap for Black workers and other workers of color³⁵. And the pay gap is significantly smaller for unionized women of color in the public sector. For example, unionized Black women in the public

³² Katherine Gallagher Robbins et al., *Union Membership is Critical for Equal Pay*, National Women’s Law Center (February 2016).

³³ *Id.*

³⁴ National Women’s Law Center, *supra* n. 27.

³⁵ Bivens, et al., *supra* n. 8; *see also* Jake Rosenfeld et al., *Organized Labor and Racial Wage Inequality in the United States*, AJS (March 2012).

sector earn 77 cents for every dollar a white, non-Hispanic man earns, compared to 68 cents for a non-union Black woman working in the public sector.³⁶

These union advantages in addressing wage gaps are particularly relevant in the public sector given the prevalence of women and people of color in public service jobs. For decades, the public sector has provided quality job opportunities to workers, and especially women and workers of color³⁷. Historically, women and Black workers have made up a disproportionate share of public sector workers relative to their numbers in the overall population³⁸. Women comprise 55.5 percent of unionized public sector workers nationwide, compared to less than 50 percent of the overall workforce³⁹. In Missouri, women are 54.7 percent of the public sector workforce, compared to 46.9 percent of the workforce overall⁴⁰.

³⁶ Kayla Patrick, *Public Sector Unions Promote Economic Security and Equality*, National Women's Law Center (January 2018).

³⁷ Annie Lowery, *Where Did the Government Jobs Go?*, *The New York Times Magazine* (May 1, 2016).

³⁸ David Cooper et al., *The Public-Sector Jobs Crisis: Women and African Americans Hit Hardest by Job Losses in State and Local Governments*, Economic Policy Institute, Briefing Paper #339 (May 2, 2012).

³⁹ Patrick, *supra* n. 35.

⁴⁰ *Id.*

Workers of color account for one in three state and local government workers.

This percentage has steadily grown since 1989⁴¹.

C. Unions Promote Equal Opportunity and Advancement

In addition to addressing pay discrimination, unions help prevent racial and gender discrimination and harassment by negotiating strong collective bargaining language prohibiting these practices and providing a process for addressing them. These protections are particularly important for workers who identify as LGBTQ, because of lingering questions over the extent of protections under federal law and the lack of explicit protections under Missouri law. Until the U.S. Supreme Court's recent decision in *Bostock v. Clayton County*, 590 U.S. ___, No. 17-1618 (June 15, 2020), it was not clear whether Title VII of the Civil Rights Act covered discrimination against workers based on their status as LGBTQ workers. In Missouri, no statute protects public sector workers against discrimination based on LGBTQ status. Strong contractual protections in collective bargaining agreements provide explicit protection against discrimination for these workers, whose protections under federal and state law remain unsettled.

More generally, unions reduce arbitrary and discriminatory actions through collective bargaining agreements that provide due process for employment decisions and a process for challenging arbitrary or unfair decisions. HB 1413 guts

⁴¹ Cooper et al., *supra* n. 37.

a union's ability to invoke these provisions to protect workers against discrimination or other arbitrary action because it gives sole authority to cities and states to make promotional, scheduling, work assignment, and other personnel decisions.

D. Unions Improve Workplace Safety

Research has consistently demonstrated the various ways in which unions improve workplace safety and health protections for workers. These protections are always vital, and even more so during the COVID-19 pandemic. Workers with the protection of a union contract feel more secure speaking out about job hazards both internally and to outside authorities⁴². And through the power of collective action through their union, unionized workers are better positioned to win protective gear and other protections from their employers⁴³. Unionized workers are more likely to have a government health and safety inspection of their workplaces.⁴⁴ This takes on even greater significance given the severe shortage of

⁴² Thomas Kochan, et al., *Worker Voice in America: Is There a Gap Between What Workers Expect and What They Experience*, ILR Review (January 2019).

⁴³ Lora Engdahl, *Unions are Giving Workers a Seat at the Table When it Comes to the Coronavirus Response*, Economic Policy Institute (March 31, 2020).

⁴⁴ Aaron Sojourner, *Unionized Workers are More Likely to Assert Their Right to a Safe and Healthy Workplace*, The Conversation (September 2, 2020).

health and safety inspectors to protect workers in the United States⁴⁵. Moreover, the protections unionized workers win for themselves also benefit others, as shown by a recent study documenting that unionized nursing homes had lower COVID-19 rates⁴⁶.

II. HB 1413 WILL DEPRIVE EMPLOYERS, TAXPAYERS, AND COMMUNITIES OF THE FULL BENEFITS OF COLLECTIVE BARGAINING

A. Unions Are Good for Communities and State and Local Governments

States and localities face a constant challenge to maintain revenues, and this challenge is even more acute during the COVID-19 pandemic. Recent research documents an important benefit of unionization to states and localities struggling to balance their budgets. Union workers pay 28 percent more in taxes than non-union workers, and they receive 24 percent less in government benefits in the form of food stamps, welfare, Medicaid, and the like⁴⁷. This is because as we have shown,

⁴⁵ AFL-CIO Report, *Amid the COVID-19 Pandemic, the AFL-CIO Releases Its Annual Death on the Job: The Toll of Neglect, 2020*, (October 6, 2020) (noting that federal OSHA only has enough inspectors to inspect each workplace once every 162 years).

⁴⁶ Adam Dean, et al., *Mortality Rates From COVID-19 Are Lower in Unionized Nursing Homes*, Health Affairs 39, No. 11 (November 2020)

⁴⁷ Aaron Sojourner, et al., *The Relationship Between Union Membership and Net Fiscal Impact*, IZA Institute of Labor Economics DP #11310 (December 6, 2018).

workers covered by a union contract are more likely to receive a living wage and benefits from their employment.

Because unionization raises wages and allows more workers to join and remain in the middle class, unionization is good for communities and the economy. Middle class workers spend more proportionately on consumer goods and services than higher-income workers. Consumer spending by middle-class workers boosts local economies at a time when many economists are concerned about inadequate demand for goods and services.

B. Unions Help Employers

Unions are beneficial to employers because they provide a mechanism for employers to address workplace issues constructively and collectively with their employees, whether the issue is safety, pay, productivity, or any number of topics⁴⁸. Employers in the public sector have spoken to the importance of their bargaining relationships with public sector unions in constructively addressing issues and avoiding workplace conflict⁴⁹.

⁴⁸ See generally Richard B. Freeman & James L. Medoff, *What Do Unions Do?* 15 (1984).

⁴⁹ See Brief of Governor Tom Wolf, as Amici Curiae in Support of Respondents, at 29-31, *Janus v. AFSCME Council 31* (2018).

For example, public sector unions have identified and suggested ways to improve public administration and save cities and states money. By engaging workers in these discussions, public agencies are able to take a collaborative approach to solving problems and achieve important buy-in from their workforce⁵⁰. The collective bargaining framework allows these discussions to take place in a way that the parties identify shared interests and workers are part of the solution⁵¹. Workers covered by a collective bargaining agreement may be more likely to participate in these efforts because of the security a collective bargaining agreement provides⁵². There are countless examples of public sector unions working with cities and states to find efficiencies and improve operations⁵³.

⁵⁰ See Jeffrey Zax, et al., *The Effects of Public Sector Unionism on Pay, Employment, Department Budgets and Municipal Expenditures*, in *When Public Sector Workers Unionize*, 323, 326 (Richard B. Freeman, 1988).

⁵¹ See Joel Cutcher-Gershenfeld, *The Impact on Economic Performance of a Transformation in Workplace Relations*, *Industrial and Labor Relations Review*, Vol. 44, No. 2 (January 1991).

⁵² See Sandra Black, et al., *How to Compete: The Impact of Workplace Practices and Information Technology on Productivity*, National Bureau of Economic Research, Working Paper #6120 (1997).

⁵³ See, e.g., U.S. Department of Labor, *Working Together for Public Service: Final Report of The Secretary of Labor's Task Force on Excellence in State and Local Government Through Labor-Management Cooperation*, *Working Together for Public Service* (1996).

C. Public Sector Employers Benefit from Lower Turnover

Public sector employers are better able to retain a skilled, trained workforce and experience less turnover than private sector employers. The State's expert, Dr. Daniel Shoag, argues that turnover rates among public employees support the requirement of union recertification elections every three years. However, the turnover rate in the public sector is approximately half of the rate in the private sector, where there is no recertification requirement.⁵⁴ Lower turnover is financially beneficial to public sector employers – and taxpayers -- because it saves employers substantial recruitment and training costs, estimated to be 20 percent of a worker's salary⁵⁵. The comparatively low turnover rate in the public sector conclusively refutes the state's claim that regular recertification elections are needed because of high turnover. To the contrary, given the stability of Missouri's public sector workforce, there is no need for regular recertification elections, and requiring them only drains resources from public sector unions, leaving them in a

⁵⁴ U.S. Department of Labor, Bureau of Labor Statistics, Economic News Release – Annual Total Separations (March 2020).

⁵⁵ See Heather Boushey, et al., *There are Significant Training Costs in Replacing Employees*, Center for American Progress (November 16, 2012).

weaker position to advocate for public service workers.⁵⁶

CONCLUSION

HB 1413 will weaken the ability of public service workers in Missouri to join together and bargain collectively through their unions for stronger workplace protections, including health and safety protections and protections against discrimination and arbitrary employment decisions. Weaker unions will deprive cities and states of an important mechanism for addressing workplace issues with their employees. Weaker unions will suppress pay, depriving cities and states of important revenue and generating greater demand for public benefits. This Court should affirm the judgment of the Trial Court in its entirety.

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⁵⁶ It should be noted that public sector workers have the right to file for a decertification election at any time if they desire a vote on retaining union representation. See §105.575.9-.11, RSMo. Thus, regular recertification elections are unnecessary to protect the rights of employees but will substantially burden and drain resources from public sector unions.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above was filed electronically under Rule 103 through Missouri Case Net, on this 26th day of October, 2020.

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CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that the above brief complies with the limitations in Rule 84.06(b) in that the brief contains 5,895 words. This word count includes the entire brief and does not exclude the parts of the brief subject to exemption under Rule 84.06(b).

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