



WORKING

Fighting for Workers' Rights
Summer 2018

for you



UNION 2018

Elections Are on the Horizon

A CASE STUDY OF WHAT HAPPENS WHEN POLITICIANS ABANDON WORKERS

If anyone thinks cutting taxes on the wealthy, shrinking government, and destroying unions are good ideas, I suggest they think again. A May 8, 2018, report of the Economic Policy Institute, a well-recognized organization that has long studied and dealt with economics and growth in the United States, provides a very telling study of two state governors who chose different paths. Wisconsin Governor Scott Walker's agenda was cutting taxes and destroying unions. Minnesota Governor Mark Dayton's agenda was just the opposite. The following study performed by the Economic Policy Institute is a must read to understand that when someone "promises" what Governor Walker did in Wisconsin, it may sound good, however, in the final analysis, it does not work.

Since the 2010 election of Governor Walker in Wisconsin and Governor Dayton in Minnesota, lawmakers in these two neighboring states have enacted vastly different policy agendas. Governor Walker and the Wisconsin state legislature have pursued a highly conservative agenda centered on cutting taxes, shrinking

government, and weakening unions. In contrast, Governor Dayton and the Minnesota state legislature have enacted a slate of progressive priorities: raising the minimum wage, strengthening safety net programs and labor standards, and boosting public investments in infrastructure and education, financed through higher taxes (largely on the wealthy).

Due to the proximity and many similarities of these two states, comparing economic performance in Wisconsin versus Minnesota provides a compelling case study for assessing which agenda leads to better outcomes for working people and their families. Now, seven years removed from when each governor took office, there is ample data to assess which state's economy—and by extension, which set of policies—delivered more for the welfare of its residents. The results could not be more clear: by virtually every available measure, Minnesota's economic recovery has outperformed Wisconsin's.

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Jubelirer, Pass & Intrieri has served as legal counsel for more than 80 local and national labor organizations in various industries in both the public and private sectors. The lawyers at JPI have represented working people and their families in a variety of legal proceedings.

JPI has a well-established track record protecting and enforcing workers' rights. Our attorneys are honored to have been named among Pennsylvania Super Lawyers, Pittsburgh's Top-Rated Lawyers, and Best Lawyers in America.

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Let us serve you and your family.



MIDTERM ELECTIONS ARE ON THE HORIZON

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Key findings include:

- Job growth since December 2010 has been markedly stronger in Minnesota than Wisconsin, with Minnesota experiencing 11.0 percent growth in total nonfarm employment, compared with only 7.9 percent growth in Wisconsin.
- From 2010 to 2017, wages grew faster in Minnesota than in Wisconsin at every decile in the wage distribution.
- Gender wage gaps also shrank more in Minnesota than in Wisconsin. From 2010 to 2017, women's median wage as a share of men's median wage rose by 3.0 percentage points in Minnesota, and by 1.5 percentage points in Wisconsin.
- Median household income in Minnesota grew by 7.2 percent from 2010 to 2016. In Wisconsin, it grew by 5.1 percent over the same period.
- Minnesota made greater progress than Wisconsin in reducing overall poverty, child poverty, and poverty as measured under the Census Bureau's Supplemental Poverty Measure.
- Minnesota residents were more likely to have health insurance than their counterparts in Wisconsin.
- From 2010 to 2017, Minnesota has had stronger overall economic growth, stronger growth per worker, and stronger population growth.

At the time of the November 2010 elections, most states were still reeling from the economic devastation caused by the Great Recession. Although the recession had officially ended in 2009, the low point of the labor market was in 2010—the country continued losing jobs until March of that year. Thus, when both Governors took office in January 2011, the economic policy agendas that each pursued would largely define their respective states' recoveries.

Governor Walker's policies have been typical of the most conservative state agendas: large tax cuts for businesses and higher-income households, deregulation, huge cuts in public financing of everything from K–12 and higher education to green energy programs and aid to the poor, weakening labor standards and cutting safety net programs, shifting public funding to the private sector, undermining workers' ability to form unions, and rejecting federal dollars to invest in infrastructure or expand Medicaid. Governor Walker and his allies in the legislature also brazenly gutted the state's public-sector unions, severely limiting their ability to negotiate

new contracts or collect dues, and establishing onerous requirements for annual recertification.

In contrast, Governor Dayton's policies embraced the role of government in regulating markets, improving the welfare of workers and their families, and boosting private-sector growth through public-sector investment. The state raised its minimum wage and set it to be automatically adjusted for inflation each year. Minnesota raised taxes, largely on the wealthy, and used the additional funds to finance public investments in infrastructure, education, and aid to low-income families. The state expanded preschool and access to full-day kindergarten. Governor Dayton's government authorized the unionization of new groups of state-funded workers, expanded access to paid sick leave, strengthened the state's unemployment insurance program, and was an early adopter of the Medicaid expansion under the Affordable Care Act. State lawmakers also enacted a pay equity law to combat gender pay disparities, legalized gay marriage, and made it easier to register to vote.

In assessing the state-policy-driven economic outcomes of working people in Wisconsin compared with any other state since 2010, the discussion must begin with what happened to Wisconsin's unions. In June of 2011, after months of protests, the Republican-controlled state legislature passed, and Governor Walker signed, the Wisconsin Budget Repair Bill, also known as Act 10. Act 10 took away all collective bargaining rights from state home health care workers, state family child care workers, state hospital employees, and all University of Wisconsin faculty and staff. It also restricted collective bargaining rights for all remaining state employees—except for law enforcement and firefighters—to only bargaining over wages, with wage increases statutorily capped at the rate of inflation. In addition, the bill eliminated automatic dues deduction for union members and required that all unions had to annually recertify through a majority vote of all members.

Although Act 10 was ostensibly a bill to balance the budget, it was designed to worsen job quality for the state's public-sector workforce and to severely weaken the state's public-sector unions. Unfortunately for the working people of Wisconsin, four years after Act 10 was passed, Governor Walker signed a so-called right to work bill, which restricts the ability of both public- and private-sector unions to collect dues from all workers whose interests they represent. By making it legal for workers to access union benefits without paying dues, right to work laws hamstringing unions' ability to raise funding,



From 2010 to 2017, the share of Wisconsin workers in unions fell by 5.9 percentage points from 14.2 percent to 8.3 percent—the largest decline in union membership of any state over that period.

consequently weakening their ability to support employees in bargaining for better wages, benefits, or working conditions.

As a result of these two laws, union membership in Wisconsin has fallen dramatically. From 2010 to 2017, the share of Wisconsin workers in unions fell by 5.9 percentage points from 14.2 percent to 8.3 percent—the largest decline in union membership of any state over that period. At the same time, union membership in Minnesota declined by 0.4 percentage points to 15.2 percent, the same share that Wisconsin had in 2009. Union membership fell nationally by 1.2 percentage points to 10.7 percent over the same period.

Wisconsin's rapidly declining rate of unionization and the large cuts made to its public sector have serious implications for the state's short- and long-term economic performance. Governor Walker contended that his agenda of shrinking the public sector and reducing the power of unions would lead to stronger private-sector growth, which would ultimately lead to better economic outcomes for Wisconsin workers and their families. Seven years later, there is no evidence to validate his claim.

For more information about JPI, go to jpilaw.com/about-jpi/practice-overview.html

INJURIES from SELF-DRIVING VEHICLES

The future of self-driving vehicles (SDVs) is rapidly approaching. As anyone in Western Pennsylvania knows, Uber has been testing SDVs in a pilot program in Pittsburgh since September 2016. As a result of a fatal accident in March 2018, Uber temporarily suspended its autonomous vehicle operations. In the fatal accident, a pedestrian was walking her bicycle along the street when she was struck by the autonomous vehicle. An Uber employee was behind the wheel but apparently did not intervene prior to the impact. It has been reported the vehicle was traveling slightly in excess of the speed limit and the vehicle's perception sensors failed.

This accident confirms autonomous vehicles will not prevent all accidents. Many experts contend a human driver could have responded more quickly and possibly avoided the accident. Apparently this sentiment is widely shared by the general public. According to recent polls, eighty-seven percent of Americans want SDVs to always have a person inside who retains the ability to take control of the vehicle.

Commentators have speculated that increased use of SDVs will change automobile accident

litigation and the insurance industry. It is predicted the rise of self-driving vehicles will reduce the number of accidents, since most vehicular accidents are the result of human error or negligence. It is also believed automobile insurance premiums will increase since repair costs for an autonomous vehicle will be more expensive. Replacing or repairing bumpers equipped with radar sensors will make even simple fender benders more expensive thereby increasing property damage claims.

When a vehicular collision results in bodily injury, litigation revolves around an analysis of which driver's negligence was the cause of the collision. Resolution of this issue typically centers around information obtained from the drivers involved, eyewitnesses, and the use of accident reconstruction experts. The same issues will be present in accidents involving SDVs. Drivers can still

be found negligent in failing to take control over the vehicle in response to an impending collision. Drivers can also be found negligent for actions that occur after they retake control of the vehicle. Liability could also be predicated upon owners failing to properly set the vehicle controls prior to beginning a trip.

The biggest anticipated change for litigation involving autonomous vehicles will be greater emphasis on product liability claims. Such litigation will involve claims of software malfunction, design and manufacturing defects, and inadequate warnings.

If you wish to discuss a claim for personal injuries attributable to an automobile collision or premises liability, please contact the attorneys at Jubelirer, Pass & Intrieri, P.C.



Workers' Compensation: IS YOUR INJURY OR ILLNESS WORK-RELATED?

If you are seeking workers' compensation benefits, you will have to show that your injury or illness is work-related. Usually, if you are doing something for the benefit of your employer, and you are injured or become ill as a result, your injury or illness is work-related and you can receive benefits as long as you meet the other eligibility requirements. Although it may seem simple to show that your injury or illness is work-related, the examples below illustrate otherwise.

Lunchbreaks

Usually, injuries that happen on an employee's lunchbreak are not considered work-related. For example, you probably can't claim workers' compensation benefits for spraining your ankle while walking to a deli to pick up your lunch (or lunch for your coworkers). However, the injury might be covered if you are also picking up lunch for your boss.

If you are hurt while eating lunch on the company's premises, especially in an employee cafeteria or lunchroom, the injury will generally be considered work-related. However, it probably won't be covered if you are doing something during the lunchbreak that wasn't permitted or it fell within other exceptions to workers' compensation coverage. For example, if an employee was injured during one of his regular lunch-hour "power walks" on company grounds, the injury might not be considered work-related.

Company Events

Many companies sponsor special events like parties, picnics or baseball games. Injuries sustained at these events are usually considered work-related.

Travel

Under what's known as the "going and coming rule," workers' compensation generally doesn't cover injuries sustained during your commute to or from work. There are exceptions to this rule, however, including when you're:

- driving a company vehicle;
- required to bring your own car for business use during the work day;
- doing special errands for your employer;
- traveling on a business trip, or;
- an employee who regularly travels for work or doesn't have a regular, fixed work site (such as traveling salesperson going to meet customers or healthcare workers going to the homes of care recipients).

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DR. MARTIN LUTHER KING JR.— A CHAMPION OF LABOR



We widely celebrate Dr. Martin Luther King Jr.'s work advancing civil rights in this country, and rightfully so. He was instrumental in shedding light on the civil rights abuses in the U.S. and his peaceful activism successfully created positive change. Amongst his many accomplishments, his work with the civil rights movement led to the enactment of the Civil Rights Act of 1964 and the Voting Rights Act of 1965, which banned discrimination in employment and voting respectively. These represent just a few of his well-known accomplishments but less well known is that Dr. King was also an outspoken and ardent supporter of organized labor.

Fifty years ago, MLK traveled to Memphis, Tennessee to march with striking sanitation workers. Wages for full time sanitation workers remained below the poverty level and conditions for workers had grown so deplorable and unsafe that workers frequently suffered severe injuries or even death while using the trash compactors on their trucks. When the City of Memphis became recalcitrant and refused to improve working conditions, workers banded together and went on strike. Before his assassination, Dr. King took an active role in mass meetings and street demonstrations to support the striking union workers. Dr. King's presence at the marches brought national

attention to the plight of workers and the critical importance of organized labor both in Memphis specifically and across the country generally.

Although he was tragically assassinated before it came to pass, the sanitation workers in Memphis ultimately won a significant victory in the form of union recognition, wage increases, and improved safety conditions after a 64 day strike. As Dr. King once said, "The labor movement was the principal force that transformed misery and despair into hope and progress." Known as a civil rights leader, Dr. King's contributions to the labor movement were similarly significant.



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Workers' Compensation: IS YOUR INJURY OR ILLNESS WORK-RELATED? *(continued from page 3)*

Misconduct

If you're injured while breaking a work place safety rule or while doing something else that your employer has prohibited, your injury might still be covered by workers' compensation depending on the level of your misconduct. There are some exceptions to the general rule. Workers' compensation usually doesn't cover injuries that happen because the employee was drunk or using illegal drugs. Workers' compensation coverage might also be ruled out when the injured employee was:

- trying to hurt himself or someone else;
- committing a serious crime;

- fooling around ("horseplay"); or
- breaking a workplace rule on purpose.

With respect to injuries caused by horseplay and/or breaking a workplace rule on purpose, workers' compensation coverage may still apply if the employer knew about and condoned the behavior, or it was common or an accepted part of the working environment.

Illnesses, Accumulative Injuries and Stress-Related Conditions

Workers' compensation may also cover accumulative injuries developed over time (such as repetitive strain injuries related to repetitive lifting), occupational diseases and other illnesses

resulting from long-term on-the-job exposure, and physical or psychological illnesses resulting from workplace stress. Also, if your work activities aggravated or made worse a pre-existing physical condition, the aggravation may be considered a work-related injury.

Speak With a Lawyer

If your injury or illness falls into a gray area for workers' compensation coverage, it would be a good idea to consult with us to find out whether you might be eligible for benefits. As experienced workers' compensation lawyers, we will explain how the law applies to your particular situation.