

The Case against Public Sector Unions

Hastert Center for Economics, Government, and Public
Policy

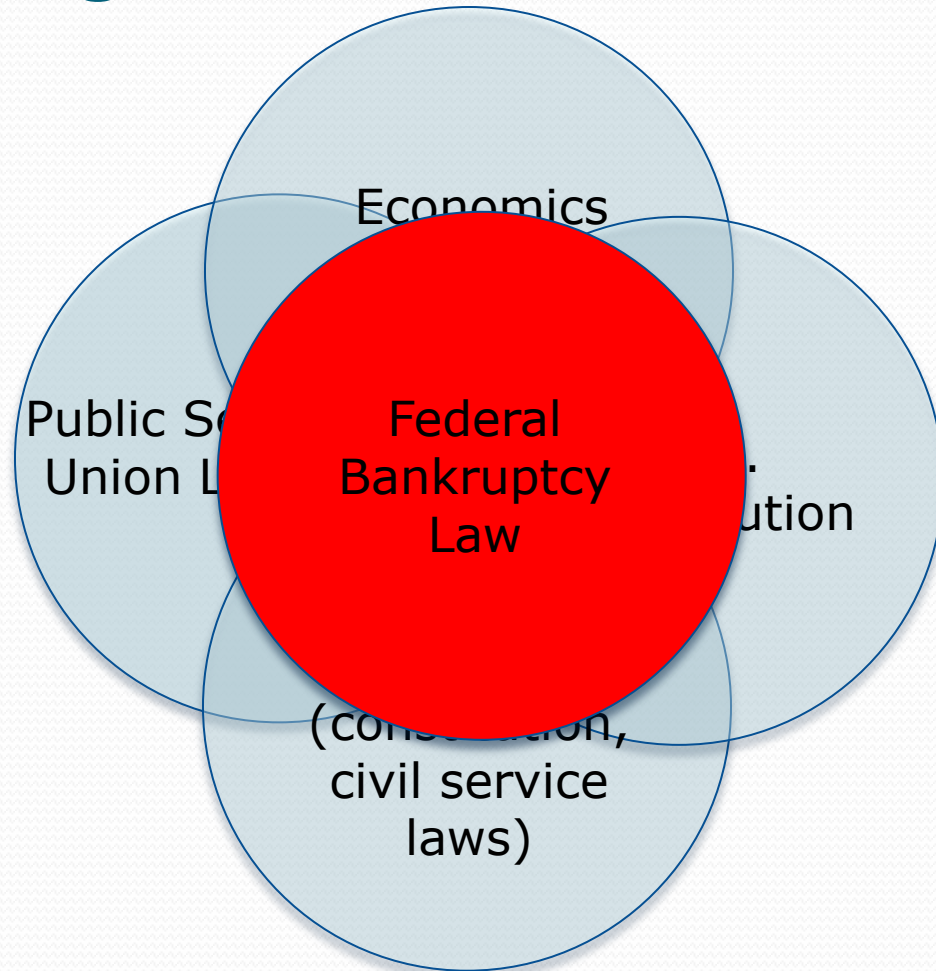
Wheaton College
November 15, 2012

Max M. Schanzenbach
Northwestern University

Goals of this talk

- Take seriously the arguments in favor of recognition of public sector unions
- Present both a conservative and progressive case against public sector unions

The challenges to a coherent analysis



Examples of overlap

- FINANCE-CONTRACT-BANKRUPTCY-STATE CONSTITUTIONAL LAW OVERLAP
- Within finance theory, the enforceability of a future obligation is key to determine the discount factor—can the obligation be modified if distressed or in bankruptcy? If obligation is certain, must use the risk-free rate.
 - But some states create effectively a contractual right in the pension “deal” that the public employee had at the date of employment! (California, Illinois Constitution)
 - Did unions contribute to this problem?
 - To the extent pensions are union contracts, they are slightly privileged in bankruptcy
 - Municipal bankruptcy law is uncertain

Public Sector Unions (History)

19th/early 20th Centuries

Courts regularly
enjoin strikes &
enforce
yellow dog
contracts

Public jobs
governed
by spoils system

U.S. Constitution did not
protect rights of public
employees

1919



1910-1950

States begin
enacting civil
service protections
modeled on federal
statute

Public Sector Unions (History)

1932

Norris-LaGuardia Act

- (1) Prohibits injunctions against strikes
- (2) Prohibits yellow-dog contracts
- (3) Did not exempt public employees

1935

National Labor Relations Act (NRLA)

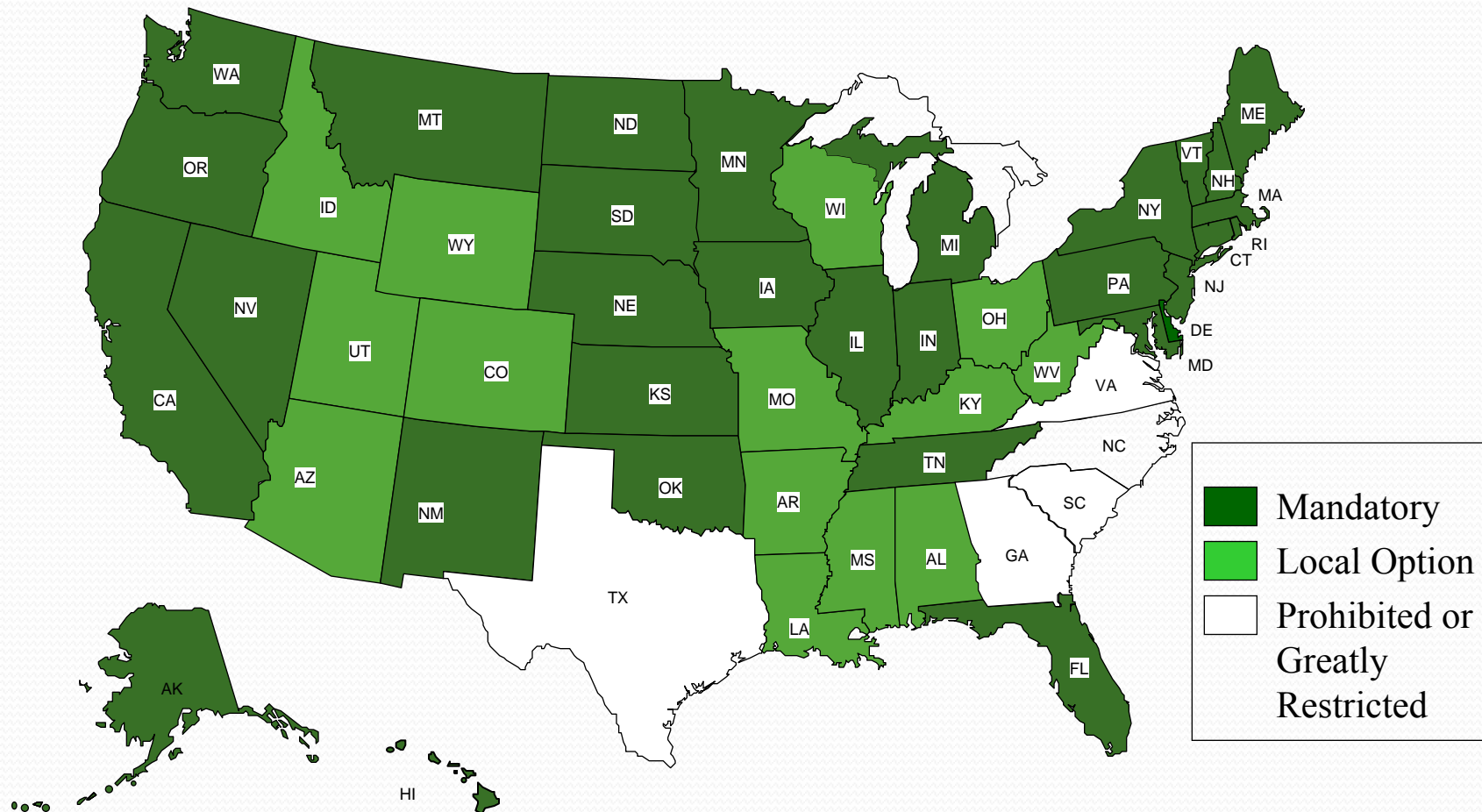
- (1) No discrimination based on union membership
- (2) If Union wins election employer has duty to bargain in good faith
- (3) No employer sponsored unions
- (4) NRLA explicitly exempts public employees

1959

Wisconsin adopts law compelling local and state governments to recognize and bargain with unions

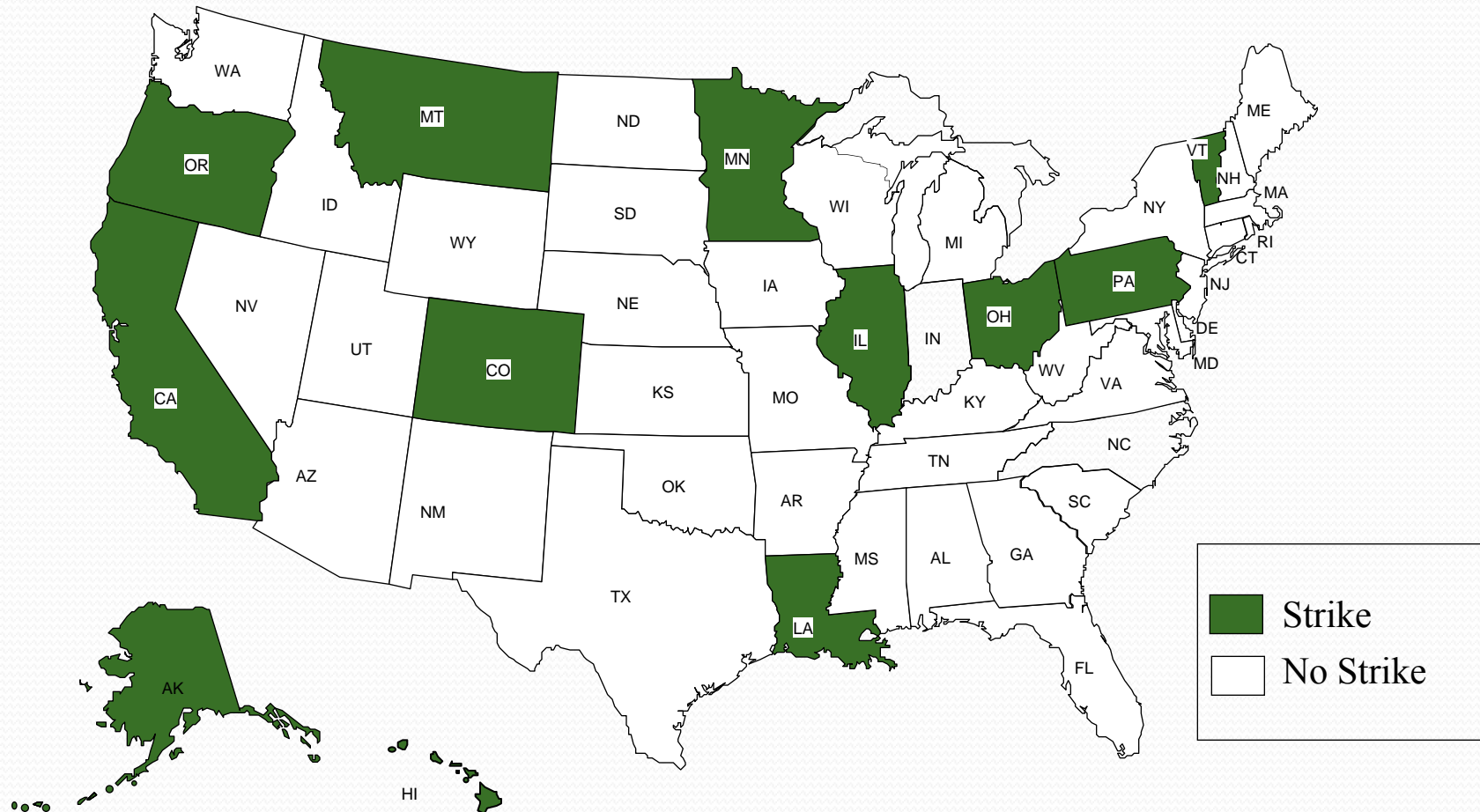
State of Public Sector Law (2012)

Wage Bargaining (Teachers)



State of Public Sector Law (2012)

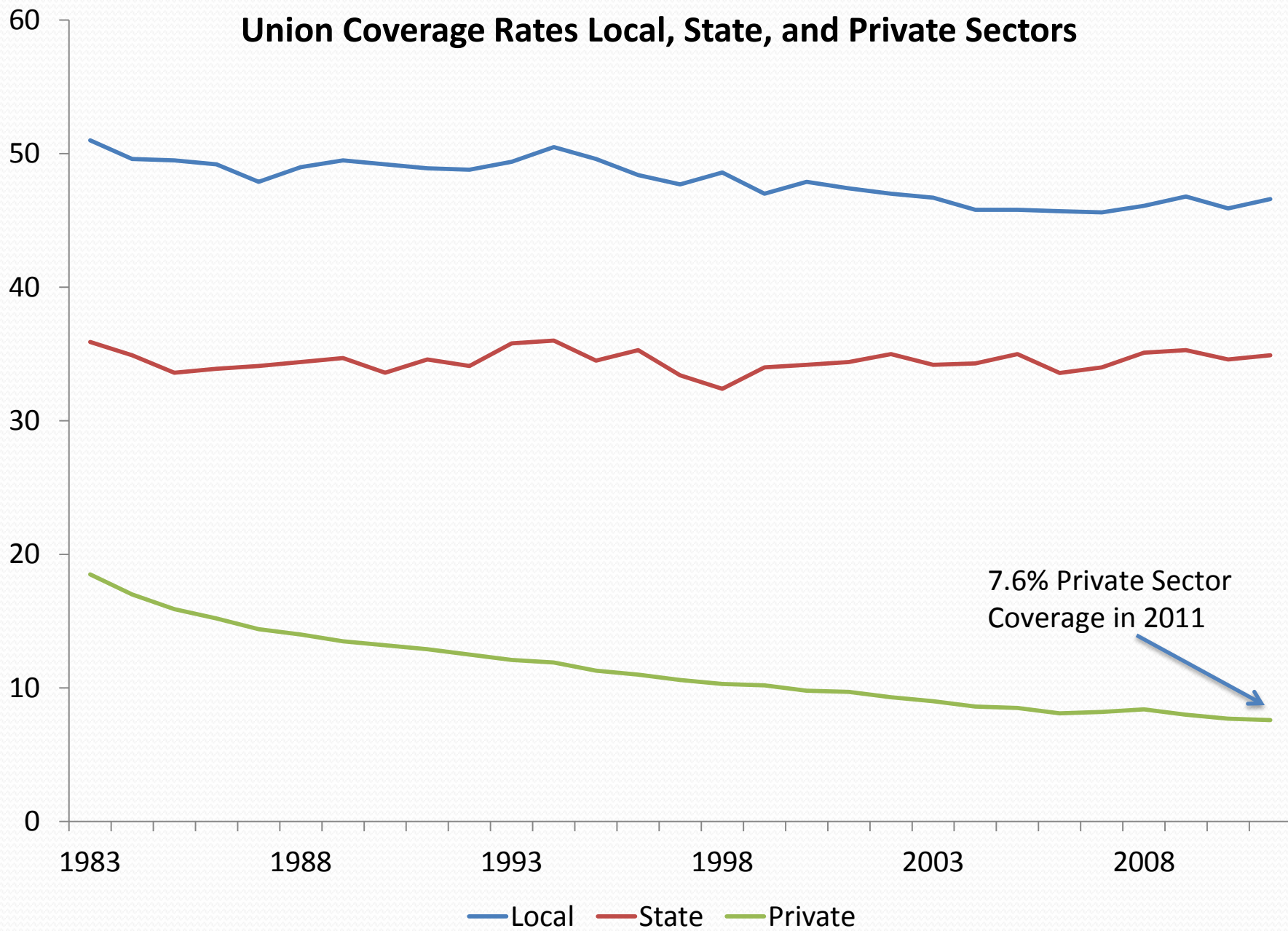
Strikes Permitted (Teachers)



The map displays the following states categorized by their marijuana legalization status in 2019:

- Mandatory (Green):** Oregon (OR), Kansas (KS).
- Prohibited (Red):** Wisconsin (WI), Iowa (IA), New Mexico (NM), Texas (TX), Virginia (VA), North Carolina (NC), South Carolina (SC), Georgia (GA).
- Local Option (White):** Washington (WA), Montana (MT), North Dakota (ND), Minnesota (MN), Wyoming (WY), South Dakota (SD), Nebraska (NE), Colorado (CO), Utah (UT), Arizona (AZ), California (CA), Nevada (NV), Idaho (ID), Missouri (MO), Oklahoma (OK), Arkansas (AR), Louisiana (LA), Mississippi (MS), Alabama (AL), Florida (FL), Illinois (IL), Indiana (IN), Michigan (MI), Ohio (OH), Kentucky (KY), West Virginia (WV), Pennsylvania (PA), New York (NY), Vermont (VT), New Hampshire (NH), Maine (ME), Massachusetts (MA), Rhode Island (RI), Connecticut (CT), New Jersey (NJ), Delaware (DE), Maryland (MD), Alaska (AK), and Hawaii (HI).

Union Coverage Rates Local, State, and Private Sectors



The Effect of Unions: Stylized Facts

Union Effects

- Wage compression
- Opposition to productivity-based pay
- A 10-15% wage premium
- Productivity? Unclear.
- Seniority-based layoff and hiring decisions
- Limited and highly formal performance evaluations
- Formalized procedures for termination for substandard performance
- Defined-benefit pension plans
- Educational services is by far the most unionized of public sector employees (70% covered by contract as of 2011)

Arguments for Public Sector Unions

- I. Public sector workers would be open to arbitrary dismissal and spoils system without union protections
- II. Public sector compensation is reasonable
- III. The recent crisis in local and state governments have largely to do with the recession, not pensions or compensation
- IV. Public sector unions encourage provision of public goods that would otherwise be undersupplied

I. Arbitrary Dismissal and Spoils System

- The vast majority of state and local employees are covered by “merit systems” contained in civil-service codes
 - probationary employment followed by “covered” or “classified” employment
 - appeal and review of discharge decisions
 - pay scales
 - promotion
 - layoff procedures

Consti
local e

Attention:



ENTER DETROIT AT YOUR OWN RISK

Unlike Cabrera, Detroit's triple crown is one of infamy. It is a crown of thorns consider:

- ! Detroit is America's most violent city;
- ! Detroit's homicide rate is the highest in the country;
- ! Detroit's Police Department is grossly understaffed;

Consider Some of Detroit Police Officers' Working Conditions

- ! Only department in the country with police officers working 12 hour shifts without appropriate staffing. FANS GET TIRED DURING A BASEBALL GAME EVEN IF IT'S EXCITING. IMAGINE WORKING 12 HOUR SHIFTS AS A DETROIT POLICE OFFICER – IT WOULD BE MORE THAN EXCITING AND BEYOND EXHAUSTION;
- ! Detroit Police Officers are the lowest paid of any big city police department as well as making substantially less than suburban departments;
- ! Detroit Police Officers have made MAJOR LEAGUE concessions in pension, wages, and other benefits that have saved the city millions of dollars;
- ! The state treasurer has threatened Detroit Police Officers with another 10% wage cut for going to court to protect their rights.

*Board
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mill*

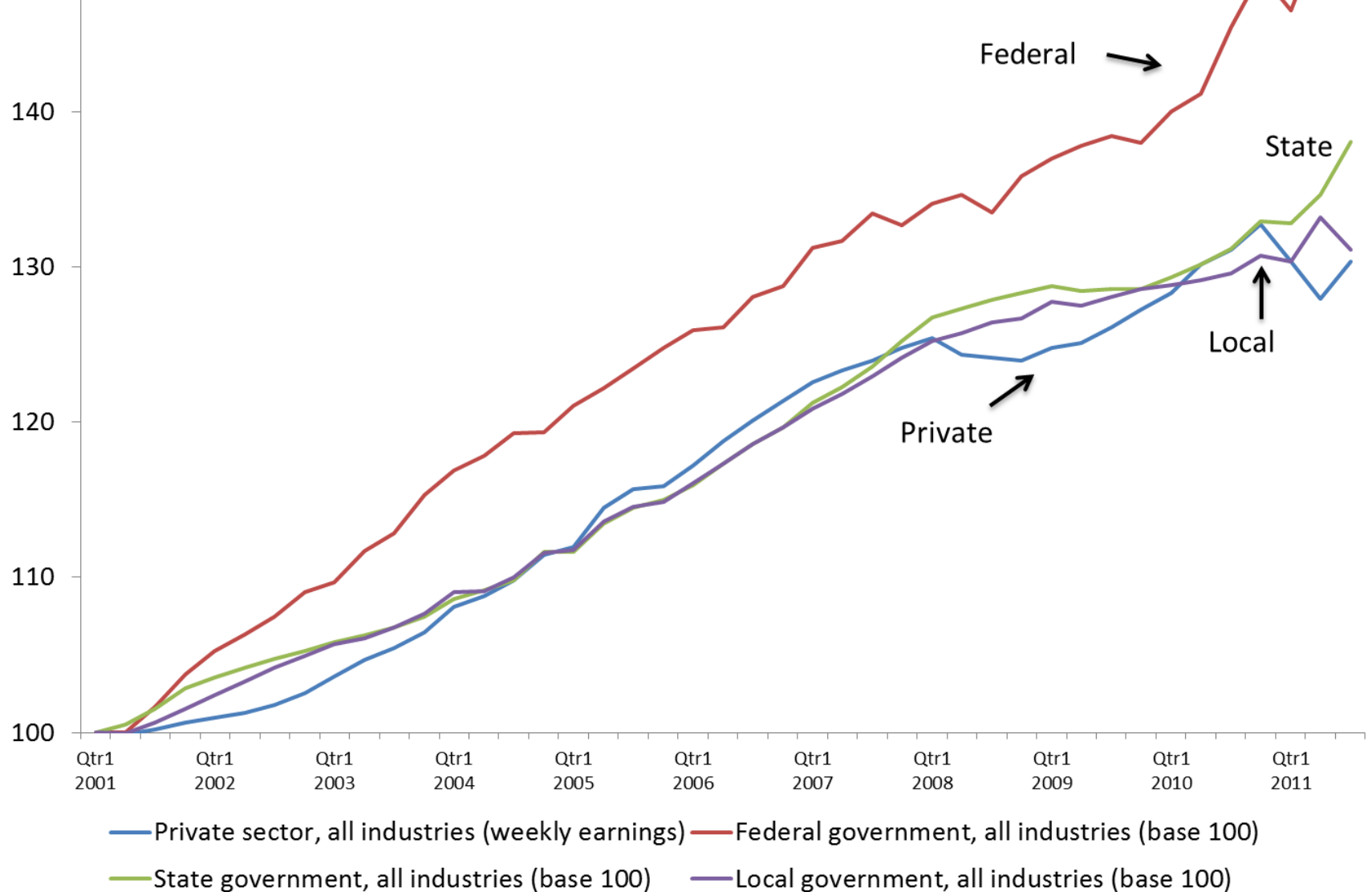
public
have
process
use of
"interest"
job.



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Pay Growth by Sector from BLS Weekly Wages (year 2001 equals 100)



The compensation conundrum

- Several empirical studies conclude that private sector workers are paid more than public sector workers (conditional on lots of x's) and.....
- Adding “total compensation” basically eliminates this differential.

PROBLEMS

If one controls for occupational categories, the public premium increases to 10% for state, and 20% for local employees

“Total Compensation” does not properly reflect the value of pensions b/c it reflects only the employer's contribution

Job security and early retirement are hard to value, but clearly valuable

DC Teachers

The compensation conundrum

But Private-Public Sector Comparisons miss the big picture

Question 1:

Can the government get enough workers at the prevailing rate?

Short answer: YES!

Question 2:

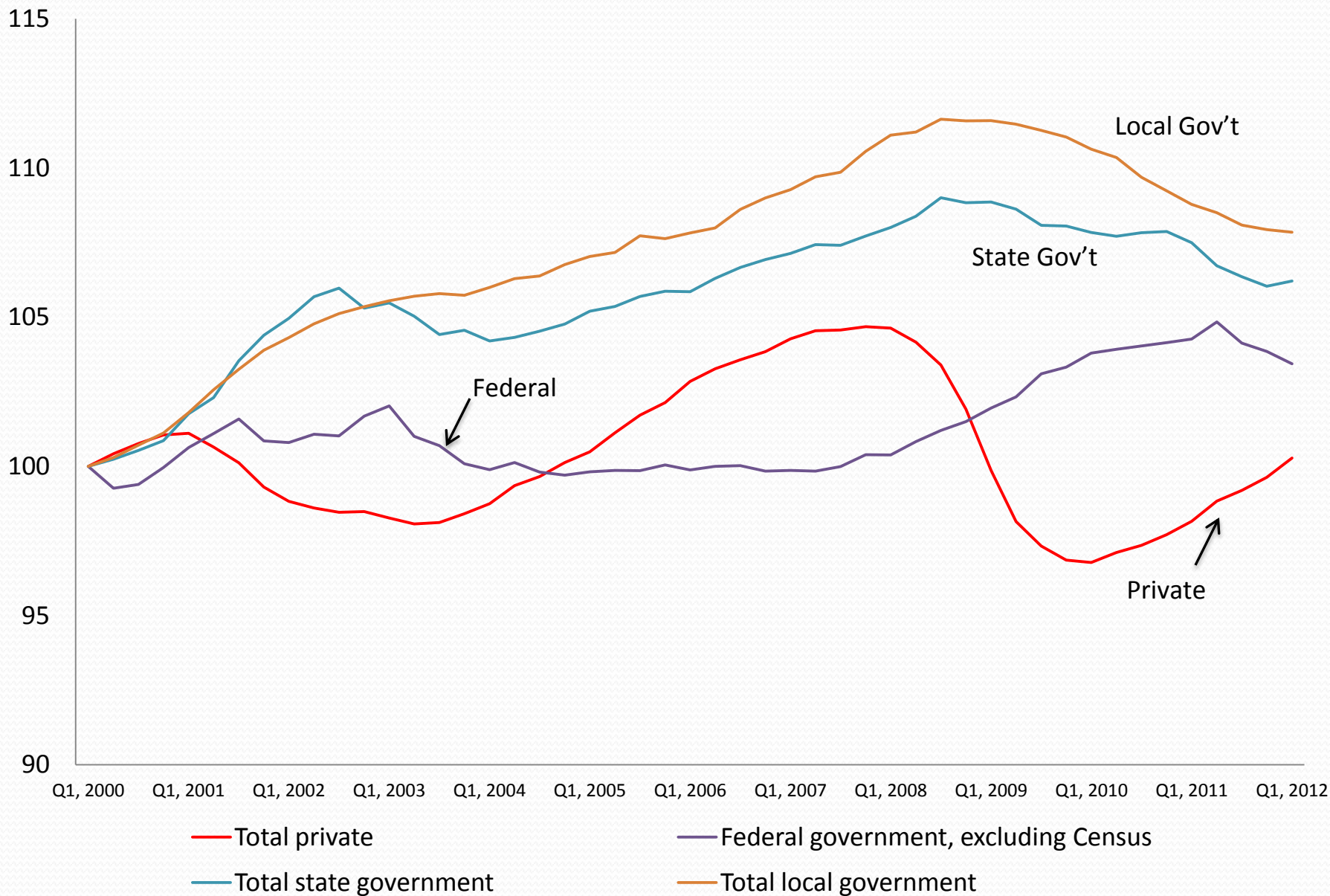
Do public sector unions raise wages and other forms of compensation above otherwise prevailing level?

Short answer: YES!

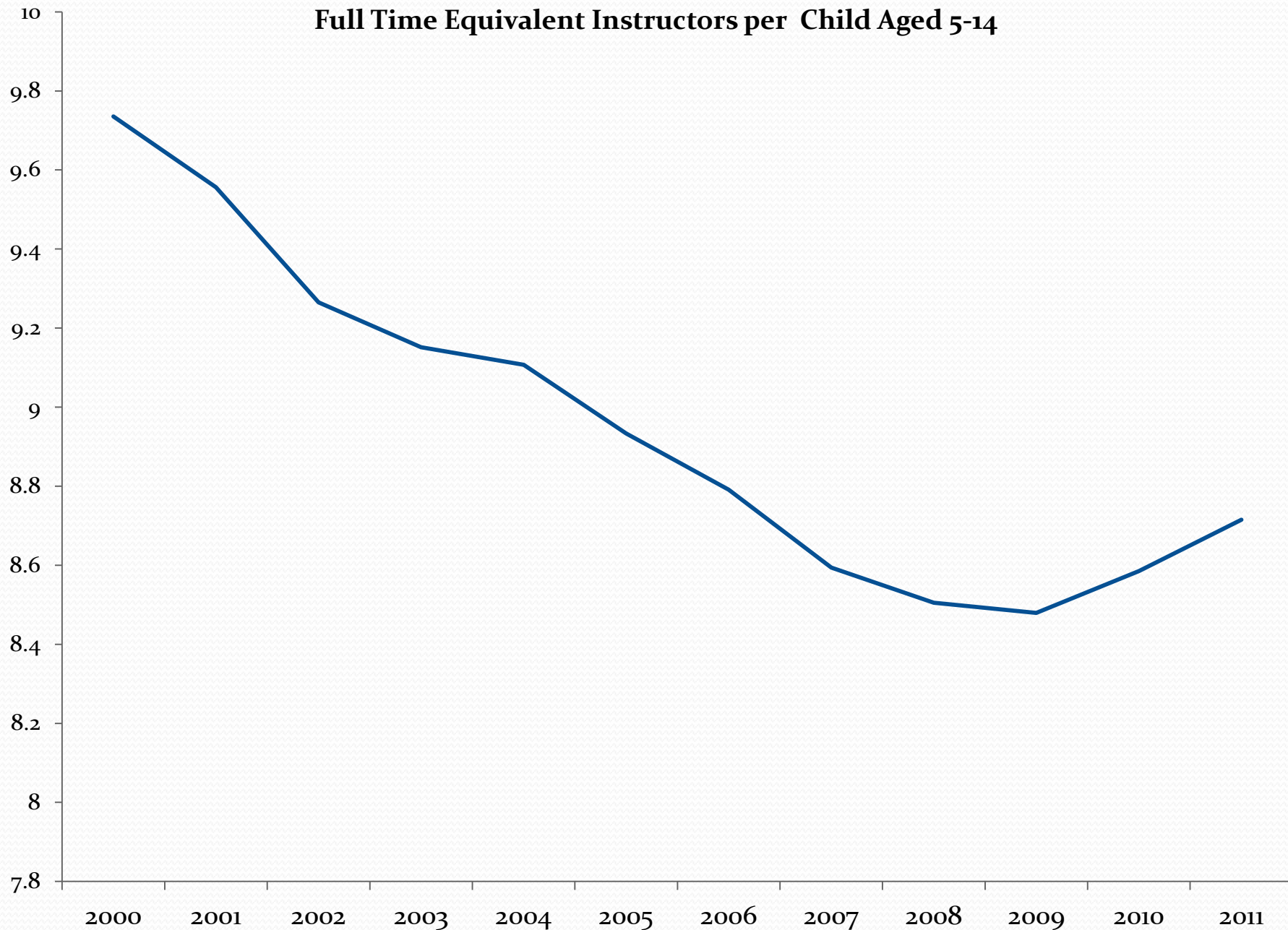
Arguments for Public Sector Unions

- I. Public sector workers would be open to arbitrary dismissal and spoils system without union protections
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Total payroll levels, seasonally adjusted, (base 100 year 2000)



Full Time Equivalent Instructors per Child Aged 5-14



Own Source Revenue and Wages (per capita, 2010 dollars)

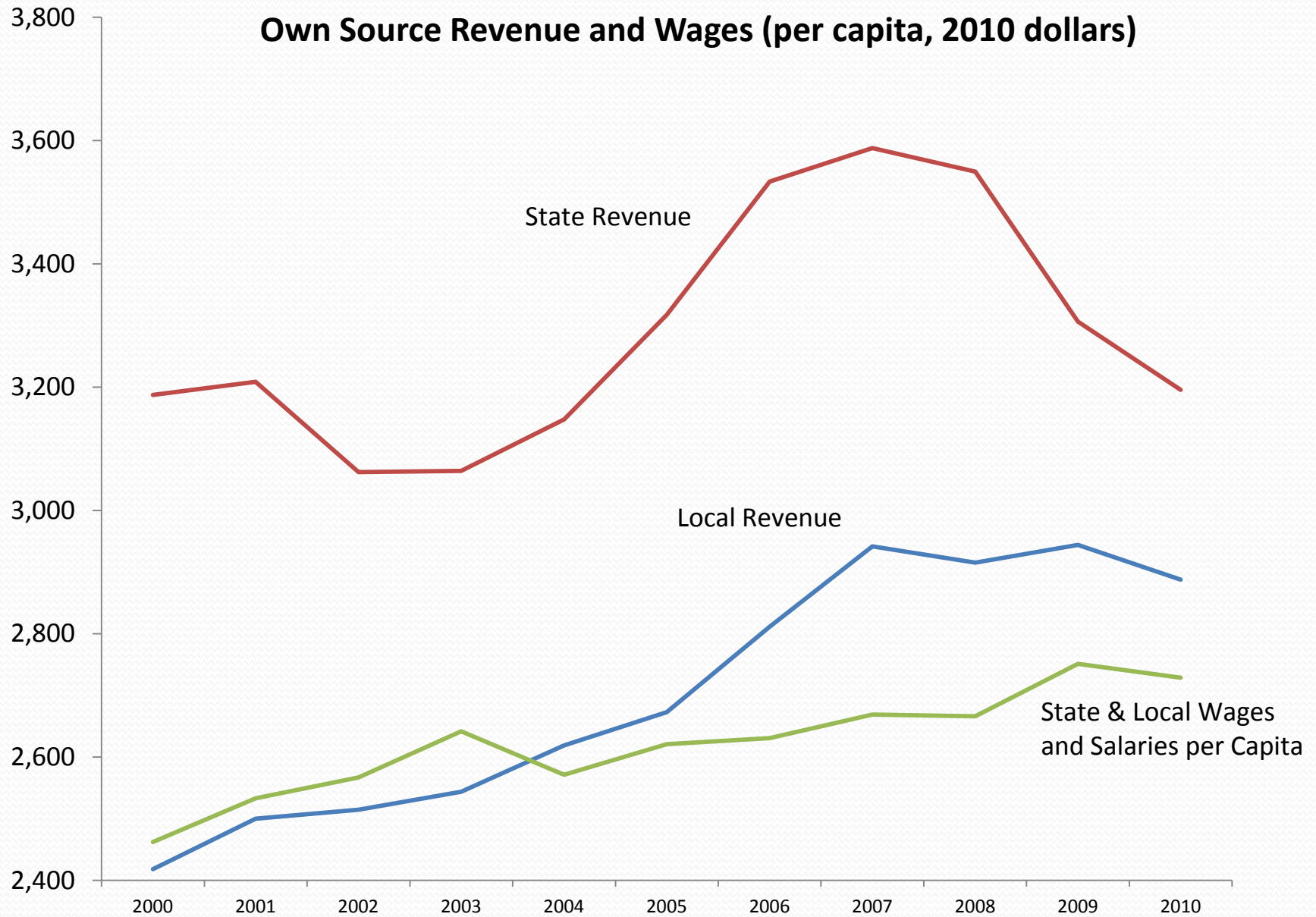
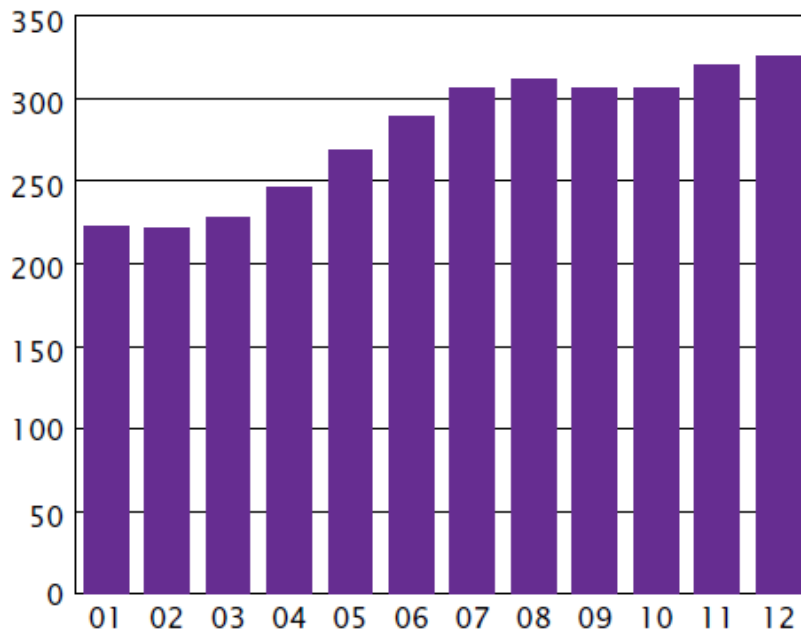


Figure 1.

Historical Quarter One National Totals of State and Local Government Tax Revenue: 2001-2012

Billions of dollars

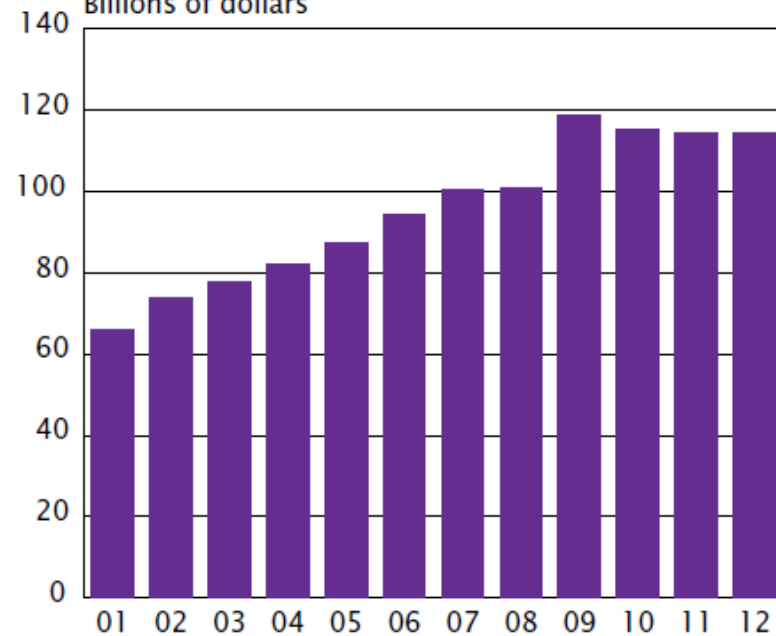


Source: U.S. Census Bureau, Quarterly Summary of State and Local Government Tax Revenue.

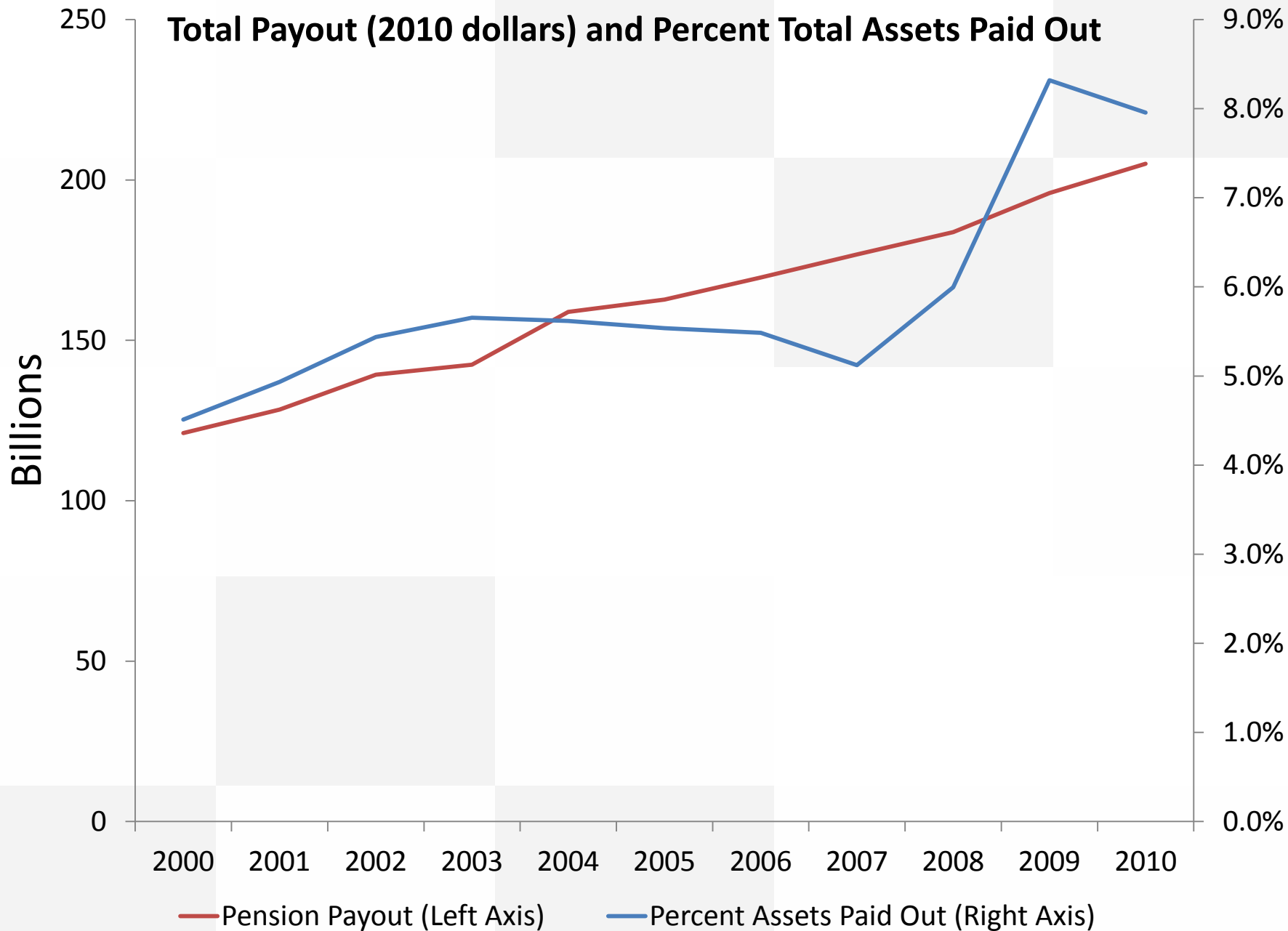
Figure 2.

Historical Quarter One Property Taxes: 2001-2012

Billions of dollars



Source: U.S. Census Bureau, Quarterly Summary of State and Local Government Tax Revenue.



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Public sector unions encourage provision of public goods that would otherwise be undersupplied

- Evidence that public sector unionization votes result in more hiring (e.g., Hoxby 1996; Lovenheim 2009)
 - *THIS IS NOT THE CASE IN THE PRIVATE SECTOR*

SHORT RUN

- ↑ Employment
- ↑ Compensation
- ↑ Back-loaded compensation

LONG RUN ????

- Employment
- Compensation
- Back-loaded compensation

Problems unique to Public Sector Unions

- I. Influence on political process
- II. Exactions are particularly damaging
- III. Competition is not a credible constraint

Are public-sector unions more powerful as an interest group?

- Collective action limits interest groups, mandatory dues overcomes this
- The offsetting interest groups are very diffuse (mainly taxpayers)
- Monopoly provision of key services
- Scope of the enterprise (16% of workers)
- Direct connection to government

Influence on political process

- Money makes only a marginal difference, but public-sector unions can deliver votes
 - 16% of workers are state & local employees (10% of electorate, more if considered former or retired)
 - 87% turnout rate (general population 60%)
 - Primary elections
 - Low-turnout (school board, special elections, initiatives, off-year mayoral elections)
- Money might make a bigger difference when combined with ability to turnout support

Problems unique to Public Sector Unions

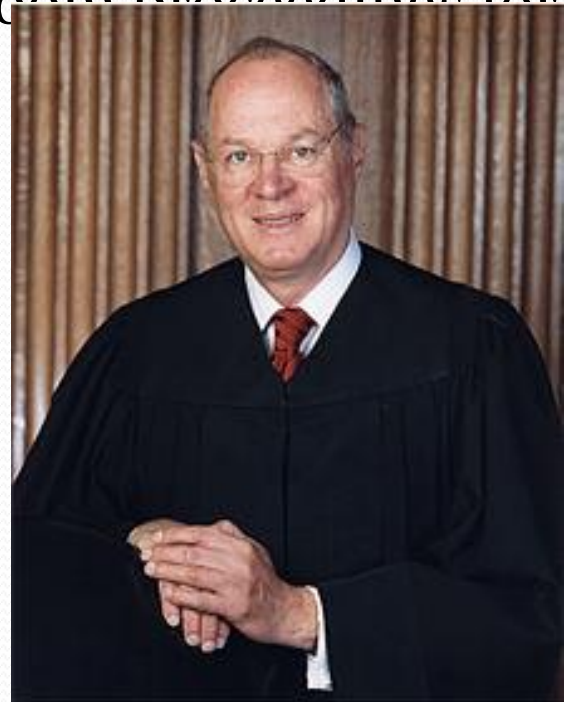
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Examples of exactions

- Statutory exactions
 - Correctional officer unions: three-strikes laws, opposition to treatment alternatives
 - Prohibition on recording courtroom proceedings for transcript purposes

"The three-strikes law sponsor is the correctional officers' union and that is sick!"

Justice Kennedy



Obscure Compensation: Pensions, Early Retirement, Job Security

What are California's
unfunded pension liabilities?

CALPERS--\$60Billion

Stanford Panel--\$550 Billion

The issue: Discount Rates

A perfect storm of perverse incentives

- Some states (Illinois, California) have strong legal protections for pensions
- Off budget
- Assets per retiree have been falling
- \$4 trillion of unfunded liabilities *for current retirees*
- Does not include health-care obligations

Quick unraveling

- 2009 pension contributions by state accounted for 3.6% of budgets
- 2012 it will rise to 5.2%
- If the rate of return is 6% and benefits remain as are, it will be 14% by 2020
- Illinois and California will hit 20%

The problem of incentives

Growing body of empirical work demonstrating the importance of teacher quality.

Chetty et al. (2011) “Replacing a teacher whose [value-added] is in the bottom 5% with an average teacher would increase the present value of students’ lifetime income by more than \$250,000 for the average classroom in our sample.”

Job Security and Grievance Arbitration

What is the significance of these numbers?

New York City
1 in 2500

1 in 200 Houston

1 in 13,500
Illinois

Selection effects

- Compression makes it difficult to attract the right workers
- Lack of incentive pay
 - DC wants to pay teachers more to teach in poorer schools

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Competition?

- Can Tiebout save us?

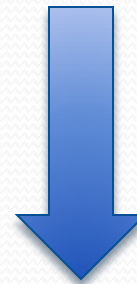


Negative Feedback Effect

Costs of compensation
increase
(unanticipated)



Increasing taxes for
the same service
and/or service cuts



Government
obligations per
taxpayer increase



Exit of tax base over
time

Obstacles to competition

- Duty to bargain mitigates local competition
- Much of back-loaded compensation has been placed on state systems
- Current union members/taxpayers do not bear the costs of obligations
- Lack of transparency in local finances generally
- Little “creative destruction”
- However, some evidence that “pricing power” affects local wages.

Conclusion

- Exactions in total compensation, work rules, and job security have terrible social consequences
- For progressives:
 - Public Sector Unions are a tax on public services
 - Will lead to privatization
 - Create internal conflict (senior employees, retirees vs. newly hired)
 - Distort the political process (at times) against progressive agenda (police, prison guards)

Recommendations

- Cease dues collections on behalf of unions
 - *Knox v. SEIU* (2012) [7-2 on holding; 5-4 on remedy]
- Limit bargaining to wages
 - But wage compression has negative consequences for the provision of public goods
 - Interest arbitrators should be directed to consider public interest as paramount
- Require transparent annual reporting of wages and benefits