

STATE POLITICS

Act 10 lawsuits have cost taxpayers nearly \$850,000 - and the bill is climbing

By *Patrick Marley* of the *Journal Sentinel*

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Madison - Taxpayers have spent nearly \$850,000 defending lawsuits over Act 10, the 2011 law that all but ended collective bargaining for most public workers.

The lawsuits aren't over yet, so the bill is sure to climb.

To date, taxpayers have paid the Michael Best & Friedrich law firm \$846,959 for its work defending Act 10, according to Gov. Scott Walker's office. The firm is billing the state up to \$300 per hour.

Walker spokesman Cullen Werwie said that the unions were ultimately responsible for the big legal bills. He said that Act 10 saved taxpayers far more than it cost because it required public workers to pay more for their health care and pensions.

"It's important to remember that the main reason we had to make these payments was because big-government, special-interest groups filed multiple lawsuits against the taxpayers," Werwie said in a statement. "As with the case of Act 10, the state of Wisconsin will continue to defend laws that put the power back in the hands of the people again."

But Assembly Minority Leader Peter Barca (D-Kenosha) criticized the expense and said it was part of a larger pattern. The state has already spent about \$2 million on redistricting litigation and is expected to face costly lawsuits over a mining law that was approved earlier this year.

"If their goal was to generate litigation for the state, this may be one where

they made us No. 1 in the country," Barca said of Republicans. "The taxpayers are paying mightily and for no good reason."

Shortly after coming into office in 2011, Walker proposed curtailing collective bargaining for teachers and most other public workers, though not police officers, firefighters and state troopers. The plan was met with massive protests, lawsuits and an attempt to recall Walker and some of his fellow Republicans in the state Senate. Walker won his recall election in June 2012, becoming the first governor in the nation's history to do so.

Even before Act 10 became law, a complaint was brought before a Dane County judge over the way the Legislature passed the measure. The judge blocked the law, but three months later the state Supreme Court reinstated it in a 4-3 ruling that found the state's open meetings law largely does not apply to the Legislature.

Walker hired Michael Best to assist Attorney General J.B. Van Hollen with that litigation, and the firm has continued to work on other lawsuits over Act 10.

In one case, a federal judge in Madison ruled portions of Act 10 violated the U.S. Constitution. That decision was later overturned by the 7th Circuit Court of Appeals, which upheld Act 10 in its entirety.

Separately, a Dane County judge has found that parts of Act 10 violate the state constitution in its treatment of municipal employees. That case is before the state Court of Appeals and is expected by both sides to eventually go before the state Supreme Court. Justice Patience Roggensack's re-election on Tuesday kept intact the court's conservative majority.

At least two other lawsuits over Act 10 are pending - guaranteeing the legal cost to taxpayers will continue to rise. So far, Michael Best has worked on one of those cases but not the other.

"This is why people don't like our legal system," said Sen. Glenn Grothman (R-West Bend). "Even though we're obviously right, the unions have forced the Wisconsin taxpayer to pay \$800,000 even though the state has done nothing wrong."

He said that he is confident the state will win the cases, even though a Dane County judge has ruled parts of the law violate the state constitution.

But Lester Pines, an attorney who brought one of the suits for unions, argued Republicans could have significantly changed the state's collective bargaining law in a way that did not violate the state constitution. Such a

change would have infuriated unions, but Pines said it would have prevented costly litigation.

Werwie, the governor's spokesman, said the high legal bills were one of the reasons Walker wants to create a solicitor general's office in Van Hollen's Department of Justice. The solicitor general would handle specialized appeals for the state and prevent having to hire outside counsel as often, Werwie said.

Werwie contended Act 10 has saved taxpayers more than \$1 billion - many times the \$850,000 in legal expenses.

But Pines said the aspects of Act 10 that most upset unions didn't save taxpayers anything. He noted Act 10 included ending the ability of governments to automatically deduct dues from paychecks, forced unions to go through costly recertification votes annually and ended their ability to collect "fair share" payments from government workers who did not join unions but enjoyed the benefits of unions.

"The point we're arguing about did not save the state of Wisconsin a dime," Pines said.

"What the fight is about is the way the bill was structured. It was structured to destroy unions. . . . In the short term it hasn't saved any money and in the long term it won't, either."

Dana Brueck, a spokeswoman for Van Hollen, said she was confident Act 10 would ultimately be upheld by courts.

"These costs were incurred not because of Act 10, but because various interests opposing the law decided to raise several different legal challenges in several different courts," she said in a statement.



About Patrick Marley

Patrick Marley covers state government and state politics. He is the author, with Journal Sentinel reporter Jason Stein, of "More Than They Bargained For: Scott Walker, Unions and the Fight for Wisconsin."

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