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Abstract

We examine the impact of state card-check legislation on public-sector union membership. Based on an empirical analysis of data from 2000 to 2009, a time during which eight states enacted card-check legislation for public employees, we find significantly higher levels of public-sector union membership for states that passed card-check legislation in years after the laws were enacted relative to states that did not pass such laws. Moreover, average public-sector union membership increased for the states that passed card-check legislation after the laws were passed relative to their precard-check law union-membership levels.

Keywords

card check, public sector, union membership, union organizing, unions

Introduction

Since the passage of the first state collective-bargaining law in Wisconsin in 1959, the legal environment for public-employee labor relations and public-sector unionism has changed dramatically (Schneider 1988; Lund and Maranto 1996; Bennett and Masters 2003). As of 2010, thirty-eight states granted union-organizing and collective-bargaining rights to at least some public-sector workers, and the union-membership rate for public-sector workers was 37.4 percent compared to just 7.2 percent for private-industry workers (BLS 2010). In fact, for the first time in the nation's history, in 2009 public-sector union membership (7.9 million) eclipsed private-sector union membership (7.4 million). Although several reasons for the divergent trends in public- and private-sector union membership have been explored elsewhere (e.g., Burton and

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Thomason [1988]; Thomason and Burton [2003]; Farber [2005]), we are interested in examining the impact on public-sector union membership of recent changes to state collective-bargaining laws that recognize card-check authorization as a means of determining union representation.

Over the past ten years, sole reliance on certification elections has been increasingly debated, mostly as it relates to private-sector workers. Although the US Congress has failed to pass legislation mandating card-check recognition for private-sector workers, a number of states have adopted card-check laws either as part of their public-sector collective-bargaining laws, or by means of executive orders (Hoffman 2010). Despite some differences between the laws, in general they require an employer to recognize a union if the union can show majority support from workers via employees' signatures on union authorization cards. As of 2009, twelve states mandate recognition via card check for at least some of their employees; eight of these states passed card-check legislation since 2000 (Hoffman 2010).

In this article, we propose that laws mandating card-check authorization, because they facilitate the union-organizing process, should lead to increases in public-sector union membership. To examine the effects of the laws, along with other factors associated with public-sector union membership, we use pooled time series/cross-sectional data on states from 2000 to 2009. The results indicate significantly higher levels of union membership for states that passed card-check legislation in the years after the laws were enacted relative to states that did not pass such laws. Moreover, we observe notable increases in average union membership for the states that passed card-check legislation after the laws were passed relative to their prelaw levels.

Eliminating Obstacles: Union Organizing via Card-Check Authorization

According to Sachs (2010), labor law can be conceptualized in terms of legal default rules. Specifically, labor policy can be understood as a legislative choice between having a union or a nonunion default rule. The NLRA and public-sector collective-bargaining laws in the states basically establish a nonunion default rule—that is, the default status of workplaces is nonunion. Due to insurmountable practical and political obstacles associated with changing the default rule, labor advocates have focused on legislative changes that would more easily allow workers to circumvent the rule, that is, legislation that provides an “asymmetry-correcting rule.” Card-check legislation accomplishes this by facilitating the abilities of employees to unionize. Card-check authorization minimizes managements' participation in the union-organizing process, thereby removing “certain impediments to the elicitation of workers' preferences” (Sachs 2010, 660-61), making it easier for employees to take themselves out of the nonunion default rule without having to convince a legislature to alter the default rule.

Based on Sachs' model, one can easily predict how a card-check statute that mandates union recognition on the basis of authorization card signatures is likely to affect unionization activity among public employees. First, the adoption of altering rules,

such as card-check legislation, should impact labor unions' choices of organizing methods. One would expect unions to gravitate toward "organizing technologies" that facilitate the organizing process. Thus, the enactment of a card-check statute should prompt public-sector unions to shift their organizing strategies toward the use of card checks rather than elections. Second, Sachs' structural model suggests that in the existing legal regime (i.e., a nonunion default rule, with no asymmetry-correcting altering rule), workplaces where workers might prefer union representation might not yet be organized. That is, in the absence of a union-representation default rule, and in the absence of an altering rule that facilitates opting out of the nonunion default rule, one would expect there to be workplaces where employees might prefer union representation, but where such representation has not been achieved—that is, workplaces where there is a representation gap (Freeman and Rogers 1993; Finkin 2006). If this is the case, the adoption of a card-check statute should enable unions to not only organize new workplaces, but also new types of workplaces. Consequently, card-check statutes should facilitate union organizing and, thus, result in higher levels of union membership.

In fact, prior research involving private-sector organizing outcomes in Canada and the United States confirm the facilitating effects of card-check use on union organizing. Using data on private-sector certifications in British Columbia for years 1978 through 1998, Riddell (2004) examined how the change in British Columbia's labor relations policy from card-check authorization (pre-1984) to certification elections (1984–1993) and then back to card checks (post-1993) affected union-organizing activity and outcomes. From 1984 to 1993, when certification elections were mandatory in British Columbia, certification attempts fell by around 50 percent (Riddell 2004). Moreover, the change to mandatory elections accounted for "virtually the entire 19 percentage point decline in private sector certification success rates that occurred over the 1984 to 1992 period" (Riddell 2004, 509). The latter finding was largely due to the greater effectiveness of management opposition to certification under the mandatory election regime.

Similar results were found by Eaton and Kriesky (2001), who examined approximately 132 organizing agreements involving private-sector employers and thirty-six different national unions. They found that the percentage of organizing campaigns resulting in certification elections was much higher under card-check agreements compared to the typical NLRB election, and that agreements allowing union organizing via card check "cut almost in half the numbers of employers running anti-union campaigns" (Eaton and Kriesky 2001, 50). Subsequent research by the same authors further revealed that workers were much more likely to report pressure from management to oppose unions in NLRB elections than to report pressure from either coworkers or unions in card-check campaigns (Eaton and Kriesky 2009).

To be sure, the contexts examined in these studies differ from our focus on public-sector organizing outcomes under card-check regimes. Recent events in Wisconsin and Ohio, among other states, notwithstanding, private-sector labor relations in the United States have traditionally been more contentious than public-sector labor

relations. Indeed, union success rates in public-sector representation elections have been near 85 percent (e.g., Bronfenbrenner and Juravich [1995]; Gely and Chandler [forthcoming]). Consequently, one might expect to see more dramatic differences in certification outcomes and in the behaviors of unions and managements when moving from elections to card checks in the private sector compared to the public sector. In fact, Riddell (2004) found that the change from card checks to mandatory elections did not negatively affect public-sector certification success rates in British Columbia, a finding he attributes to the relative lack of public-sector employer opposition to certification.

Card-Check Legislation in the American States: 2000–2009

For many, the use of card-check authorization represents a departure from the normal method for achieving union recognition, namely the certification-election process. The origins of this perspective date back to the passage of the National Labor Relations Act in 1935. Interestingly, however, during the early years of the NLRA, Board-supervised elections were used primarily in situations where the employer questioned the status of the union as the majority bargaining representative, while the card-check process was the default-recognition method (Brudney 2005). In the mid-1940s, the Board began showing a preference for elections as the primary means of union certification (Cudahy Packing, 12 NLRB 526, 1939). This practice was endorsed by Congress when the NLRA was amended in 1947 to require the Board to conduct a representation election whenever “a question of representation” existed (29 U.S.C.A. § 159 (c)(1)(b)). Secret ballot elections then became the dominant method used to certify a union as the exclusive bargaining representative of a group of employees.

The NLRA’s approach to card-check organizing was largely incorporated by states’ legislatures when they enacted collective-bargaining laws for public employees. The majority of state-level collective-bargaining laws provide for the certification of a union based on the results of an election conducted by the appropriate state agency, while allowing either explicitly or implicitly public employers to voluntarily recognize the union (Gely and Chandler forthcoming). For example, New Mexico’s statute allows a public employer and a labor organization “with a reasonable basis for claiming to represent a majority of the employees in an appropriate unit” to establish “an alternative procedure for determining majority status” (N.M. Stat. § 10–7E-14(D)).

A few states, however, deviate from the NLRA approach. Since 1958, New York’s public-sector bargaining law mandates the corresponding administrative agency to “ascertain the public employees’ choice of employee organization as their representative choice . . . on the basis of dues deduction authorization or other evidence, or if necessary, by conducting an election” (N.Y. Civ. Serv. § 207.2). More recently and relevant to our study, eight states have since 2000 enacted public-sector labor legislation mandating union recognition based on union authorization-card signatures for some employees covered under their public-sector bargaining laws. Table 1 reports the states with card-check legislation, the year it was passed, and the type of public employees covered under the law. Despite some differences in coverage and the slightly different legislative

Table 1. Summary of State's Card-Check Laws (2000-2009)*

State	Year	Scope
North Dakota	May 2001	Applicable only to teachers.
California	January 2002	Applicable to employees of any public agency, including fire departments.
Illinois	August 2003	The Illinois Public Labor Relations Act applies to employees of the state, political subdivisions of the state, and units of local government. The Illinois Educational Labor Relations Act applies to employees of school districts, public community colleges, state colleges and universities, and any state agency whose major function is providing educational services.
California	January 2004	Applicable to employees in K-12 education, secondary education, court interpreters, and other trial employees.
Oklahoma	April 2004	Applicable to municipal employees.
New Jersey	December 2004	Applicable to most public employees.
Massachusetts	December 2007	Applicable to most public employees.
New Hampshire	September 2007	Applicable to most public employees.
Oregon	September 2007	Applicable to most public employees.

*The New Hampshire law was repealed in June 2011, without the signature of the Democratic governor, after being approved by overwhelming majorities in the Republican controlled legislature.

language, the card-check laws that were enacted promote union organizing by allowing unions to achieve recognition without a certification election, and do so in ways that provide limited opportunities for employer interference.

As one might expect, six of the eight states that passed legislation allowing card-check authorization have duty to bargain legislation covering most major employee groups (Illinois, Massachusetts, New Hampshire, New Jersey, Oklahoma, Oregon). In other words, even without the card-check legislation these states provided a very favorable legal environment for public-sector unions. The remaining two states vary in this regard. California has meet-and-confer legislation for each of the major public-employee groups, while North Dakota has a duty-to-bargain law only for public-school teachers.

Data and Analyses

We model public-sector union-membership levels within the states as a function of three sets of variables—constituency-disposition variables representing state residents' ideological propensity toward union membership, such as state partisanship and state ideology; contextual-demand variables that might relate to demand for union representation; and variables representing the legal environment for public-sector labor relations.

Constituency-Disposition Variables

Public-sector union membership should reflect the receptiveness of a state's residents to unions. We include measures of state ideology and state partisanship to capture citizen support for public-sector unions. Higher levels of liberalism and a higher proportion of state residents who are Democrats should be positively associated with public-sector union membership. State ideology is the proportion of state residents identified as liberal out of all liberals, moderates, and conservatives; and state partisanship is the proportion of state residents identified as Democrats out of all Democrats, Republicans, and Independents.¹

Contextual-Demand Variables

Several contextual-demand variables are included in our analyses to control for their effects on public-sector union membership. High unemployment reduces union collective bargaining power and union membership through job loss, but it may lead unions to increase their organizing efforts, especially since public sympathy and support for workers increase during economic recessions. The average unemployment rate, therefore, may be positively or negatively associated with public-sector union membership. Racial minorities are more likely to face labor-market discrimination and are found to benefit more from union membership than other groups. Thus, states with large minority populations should have higher levels of public-sector union membership. Prior research also suggests that because redistributive legislation is more likely when prosperity is greatest, "affluent states therefore should be more likely to enact provisions that help labor" (Jacobs and Dixon 2006, 124). Likewise, union membership should be higher in more affluent states. We use per capita income in the state as our measure of affluence.

Public-Sector Labor Relations Legal Environment

Labor's organizational strength should show a strong association with the comprehensiveness and strength of a state's public-sector labor legislation. In fact, prior research finds that union membership increased dramatically in states that enacted legislation protecting workers' right to unionize and engage in collective bargaining (e.g., Freeman and Valletta [1988]; Saltzman [1988]). To account for these effects, we include two variables to represent state collective-bargaining laws. The bargaining laws are categorized as either comprehensive, indicating that bargaining rights are granted to nearly all occupations, or as narrow, indicating that there are no bargaining rights for some occupations (Budd [2010] and citations contained therein) The occupational groups in question are police and fire, state employees, public-school teachers, and municipal employees. We include a variable equal to one for those states having comprehensive bargaining laws and zero otherwise; and a variable equal to one for those states which have a narrow bargaining law and zero otherwise.² To test for differences

in union membership for card-check states and states that have not passed card-check legislation, we include two variables—Precard Check equals 1 if the state does but had not yet passed card-check legislation and zero otherwise, and Postcard Check equals 1 after a state passed card-check legislation and zero otherwise. By including both variables in the analyses we can see if, relative to states that did not pass card-check legislation, significant differences exist in union membership between noncard-check states and card-check states pre- and postpassage of card-check legislation.

Finally, we also include control variables for state population, and time. The variables used in the analyses are described, with means and standard deviations, in Table 2. To test our hypotheses, we conduct a pooled time series cross sectional regression analysis using data from 2000 through 2009. Our basic research question is: What is the effect of passing state card-check legislation on public-sector union membership during the time period 2000-2009?

Results

Table 3 shows the results from the regression analyses. All models include variables to control for time (2000 is the excluded category),³ and a variable for state population. We begin the analyses by including the constituency-disposition, contextual-demand, and state-law variables into the equation separately to see how they relate to public-sector union membership when not controlling for the other factors. These results, which are shown in columns 1 through 3, provide initial support for most of our hypotheses. As predicted, a higher percentage of state residents who identify themselves as Democrats and a higher percentage of liberal voters in a state are both positively and significantly associated with public-sector union membership (Model 1). Likewise, most of the contextual-demand variables significantly affect union membership as predicted (Model 2). The average annual unemployment rate, per capita income, and government employment have significant, positive effects on membership. The one exception is the percent of minority employment which, contrary to expectations, has significant, negative effects on union membership.

As for the effects of public-sector labor law (Model 3), the results show that the presence of comprehensive duty-to-bargain legislation is positively and significantly associated with union membership. However, the presence of narrow duty-to-bargain legislation does not significantly affect union-membership levels relative to the absence of public-sector labor legislation. In Model 4, we include two variables, Precard Check and Postcard Check, representing states that passed legislation at some point during the 2000 to 2009 period. The coefficient for Precard Check shows the difference in union membership between states that eventually passed card-check legislation and those that did not, prior to the passage of the legislation. Postcard Check shows the difference in union membership between states having public-sector card-check legislation and those that do not. When not controlling for other factors, the results indicate that states that eventually passed card-check legislation had significantly higher levels of union membership than other states, both pre- and

Table 2. Variable Definitions

Dependent Variable	Definition
Membership	The number of public-sector union members within the state. $\mu = 148,204.4$, $\sigma = 229,535.9$.
Independent Variables	
Comprehensive Duty to Bargain	A dummy variable equal to one if state has comprehensive bargaining laws for nearly all public employees. $\mu = .52$, $\sigma = .50$.
Narrow Duty Bargain	A dummy variable equal to one if state has no bargaining rights for some occupations. $\mu = .30$, $\sigma = .46$.
Precard Check	A dummy variable equal to one if state passed card-check legislation covering some portion of the public-sector workforce but the law has not yet been passed. $\mu = .07$, $\sigma = .25$.
Postcard Check	A dummy variable equal to one if state passed card-check legislation covering some portion of the public-sector workforce. $\mu = .09$, $\sigma = .29$.
State Ideology	Proportion of state residents identified as liberal out of all liberals, moderates, and conservatives. Developed using multilevel regression, imputation, and poststratification using CBS/NYT polls with a three-year moving average (Pacheco 2011). $\mu = .20$, $\sigma = .04$.
State Partisanship	Proportion of state residents identified as Democrat out of all Democrats, Independents, and Republicans. Developed using multilevel regression, imputation, and poststratification using CBS/NYT polls with a three-year moving average (Pacheco 2011). $\mu = .34$, $\sigma = .06$.
Unemployment	The average annual unemployment rate. $\mu = 5.2$, $\sigma = 1.7$.
PCI	Per capita income (personal income/population, measured in 2000 dollars). $\mu = 30036.9$, $\sigma = 4798.3$.
Percent Minority	Percent of labor force that is minority. $\mu = 10.9$, $\sigma = 11.4$.
Government Employment	Total employment in government. $\mu = 401447.4$, $\sigma = 423582.4$.
Population	State population in thousands. $\mu = 5882.1$, $\sigma = 6473.0$.
Year Dummies	A series of dummy variables equal to one for each year represented in the data (2000-2009; 2000 is the excluded category).

Note: Unemployment data were obtained from the Bureau of Labor Statistics, <http://www.bls.gov/lau/staadataa.pdf>. Data for Population (2000-2007), Per Capita Income, and Government Employment were obtained from the *Statistical Abstracts of the United States*. Population data for 2008 and 2009 were obtained from <http://www.census.gov/popest/states/>. Per Capita Income data were not available for 2009, so the 2008 data were used for that year. Data for total employment and black employment (which were used to calculate Percent Minority) were obtained from the Bureau of Labor Statistics; for states Arizona, Hawaii, Idaho, Iowa, Montana, New Hampshire, New Mexico, Oregon, South Dakota, Utah, Vermont, and Wyoming, data on black employment were not reported so the percent nonwhite is used instead. Union data were obtained from Hirsch, MacPherson, and Vroman (2001), and accompanying data online from <http://www.trinity.edu/bhirsch>. Political partisanship and political ideology data were obtained from Pacheco; due to missing data, 2006 data were used for 2007-2009.

Table 3. Determinants of Public-Sector Union Membership in the American States, 2000-2009^a

Explanatory Variable	Model 1 Coeff (SE)	Model 2 Coeff (SE)	Model 3 Coeff (SE)	Model 4 Coeff (SE)	Model 5 Coeff (SE)
Postcard-Check	—	—	—	92579*** (18788)	79288*** (14466)
Precard-Check	—	—	—	53690*** (20545)	1804.4 (16135)
State Ideology	1786877*** (123579)	—	—	—	1049850*** (161820)
State Partisanship	179144** (77391)	—	—	—	232958*** (74867)
Unemployment	—	14786*** (4289.9)	—	—	12067*** (3771.20)
PCI	—	9.88*** (1.07)	—	—	0.20 (1.18)
Government Employment Percent	—	0.50*** (0.07)	—	—	0.58*** (0.06)
Minority	—	-1337.5*** (407.59)	—	—	-889.05*** (361.76)
Comprehensive Duty to Bargain	—	—	114867*** (12898)	—	85879*** (12934)
Narrow Duty to Bargain	—	—	17566 (14018)	—	30668*** (11943)
Population	28.06*** (0.71)	-4.13 (4.68)	29.89*** (0.73)	29.5*** (0.81)	-10.78*** (4.11)
Intercept	-461374*** (37408)	-345539*** (39135)	-91076*** (18217)	-32568** (17044)	-422600*** (41226)
R-Square	0.83***	0.81***	0.80***	0.76***	0.87***
N	500	500	500	500	500

^aDummy variables for years 2001-2009 are included in all models; none were statistically significant. Significance: * <.10 ** <.05 *** <.01 (all tests are two-tail).

postpassage of their card-check laws.⁴ When all of the variables are included in the analysis together (Model 5), the results from the earlier analyses are confirmed in most cases, except for per capita income (PCI) and Precard Check, which become nonsignificant. The results indicate that prior to the passage of card-check legislation, there is not a significant difference in public-sector union membership between states that eventually passed card-check legislation and those that did not, controlling for other factors that significantly influence union membership. However, after the passage of card-check legislation, public-sector union membership is significantly higher in states with the legislation compared to those without. Moreover, a comparison of the regression coefficients, Precard Check and Postcard Check, reveals that union membership increased significantly in states after the passage of their card-check legislation.

In Table 4 we explore the individual trends in public-sector union membership levels in those states that enacted card-check legislation. Table 4 shows union membership levels (and percent unionized) for each state for years 2000 through 2009. The shaded numbers represent membership levels for years after the state's card-check law was passed. Table 4 also shows the average numbers, pre- and postcard-check laws. Although the limited numbers of observations pre- and postpassage of card-check legislation prohibit us from discussing the results in terms of statistical significance, it is clear from Table 4 that all states that passed card-check legislation experienced increases in public-sector union membership after the state's card-check law was passed. Moreover, all the states had increases in the average percent of public-sector workers who were unionized. For comparison purposes, the average annual union membership (percent unionized) for the forty-two states that did not pass card-check legislation was 115,549.1 (31.0 percent unionized) for 2000 to 2004 and 120,782.36 (31.0 percent unionized) for 2005 to 2009. The forty-two states that did not pass card-check legislation experienced a 7.4 percent increase in total union membership from 2000 to 2009 (4,855,450 to 5,214,686). For the eight states that passed card-check legislation, total union membership increased 19.2 percent (2,235,831 to 2,666,022). In fact, total union membership increased by more in the eight states that passed card-check legislation than in the forty-two states that did not, and the card-check legislation was in effect for only part of the 2000 to 2009 period in those states.

Discussion and Conclusion

Most of the debate surrounding the adoption of card-check laws has revolved around the normative issue of whether it is appropriate to facilitate the ability of unions to organize new members. Those who believe that collective bargaining is bad public policy argue that making it easier for unions to organize new members empowers unions in ways that are ultimately detrimental to the public good (e.g., Stewart [2006]; Brudney [2005]). Those who support collective bargaining point to the many obstacles unions must overcome in organizing campaigns and argue that such legislation is essential to ensuring employees' rights to achieve union representation (e.g., Friedman [2007]; Brudney [2005]). Relative to the private sector, in the public sector this debate acquires an added dimension because there has often been a somewhat visceral response to the idea of making it easier for unions to organize public employees as such efforts might be contrary to constitutional notions of free association.

Missing from this debate is a discussion of the positive issue of the effects of card-check laws on actual organizing activity and, ultimately, on union membership. This article seeks to bridge that gap. Consistent with prior research on the determinants of public-sector unionization rates, our results show that higher levels of union membership are associated with more liberal constituencies, and with the presence of bargaining statutes that are more union-friendly. More importantly, our results also show that even after controlling for these other factors, the enactment of card-check legislation is associated with higher levels of public-sector union membership. States that enacted

Table 4. Annual Comparisons of Public-Sector Union Membership (Percent Unionized) for States That Passed Card-Check Legislation

Year	California	Illinois	Massachusetts	New Hampshire	New Jersey	North Dakota	Oklahoma	Oregon
2000	1114900 (50.3)	358322 (46.9)	211714 (55.4)	28656 (37.4)	355172 (62.4)	9741 (16.4)	44941 (16.8)	112385 (53.8)
2001	1206597 (51.7)	348986 (48.3)	207818 (51.9)	31903 (43.4)	312945 (59.8)	10600 (17.8)	52561 (20.2)	112729 (50.1)
2002	1345301 (55.8)	340346 (51.5)	223536 (58.4)	34836 (42.8)	358103 (63.3)	11907 (20.3)	66897 (24.5)	111609 (51.8)
2003	1259093 (53.4)	362316 (49.8)	215208 (54.4)	31978 (39.2)	365965 (60.9)	13033 (21.7)	50301 (21.2)	118021 (54.9)
2004	1255031 (52.9)	340447 (48.5)	196891 (52.5)	35427 (41.4)	378657 (62.3)	13156 (20.2)	46497 (17.4)	122970 (53.2)
2005	1214693 (53.8)	370464 (48.5)	214801 (58.3)	43345 (49.9)	409048 (64.1)	12804 (20.7)	43598 (15.5)	118027 (48.9)
2006	1170827 (52.6)	385235 (49.5)	207748 (59.1)	39467 (44.9)	413930 (64.4)	11773 (17.3)	51543 (18.7)	112960 (48.5)
2007	1272081 (53.1)	358376 (44.2)	186120 (54.7)	40554 (45.8)	420944 (63.2)	9851 (15.4)	62714 (21.4)	123442 (52.2)
2008	1405524 (57.3)	405864 (50.3)	264532 (61.0)	45417 (47.8)	367063 (62.1)	11486 (16.3)	55054 (18.0)	139765 (59.9)
2009	1320024 (55.8)	446721 (53.6)	260956 (60.9)	43037 (48.1)	391636 (64.6)	10435 (16.7)	51465 (17.5)	141748 (57.7)
Ave. Pre-CC	1160748.5 (51.0)	349218 (48.9)	211102.3 (55.7)	35088.7 (42.7)	348046.2 (61.6)	9741 (16.4)	53675 (20.7)	115528.7 (51.6)
Ave. Post-CC	1280321.7 (54.3)	381346.1 (49.2)	237202.7 (58.9)	43002.7 (47.2)	396879.7 (63.4)	11671.73 (18.5)	51811.8 (22.4)	134985 (56.6)

card-check laws experienced increases in public-sector union membership compared to other states.

The results thus indicate that card-check legislation matters. Our findings confirm expectations regarding the potential impact of card-check legislation on union membership. In our current labor-law regime, nonunion representation is the default rule and representation elections are the legally sanctioned approach for a union seeking to be recognized as the employees' bargaining representative. Within this regime, the use of card checks depends on voluntary agreement between the union seeking representation rights and the employer whose employees are the target of the organizing campaign. Given the historical opposition of employers to union representation (Dickens 1983; Raghunath 2008), employers are unlikely to acquiesce to a request for voluntary recognition.

This concern about employer hostility has been traditionally associated with private-sector employers, as the conventional wisdom has been that public-sector employees face a more favorable organizing environment, largely due to the lack of competitive pressures, a profit motive, or threat of bankruptcy for public-sector employers (Gunderson 2005). Accordingly, public employers are generally considered less likely to aggressively oppose unions that are actively organizing public employees (Craft 2003). In an environment characterized by reduced incentives for employer opposition, one would expect public-sector unions to be less concerned about facing a certification election, and therefore less eager to shift toward card-check organizing. Similarly, given that union density rates are higher in the public sector, one would also expect there to be less pent-up demand for union representation available for release after passage of a mandatory card-check law. Yet our results show that even under these relatively favorable conditions, laws mandating card-check recognition facilitate union-membership growth.

Although our analyses predate these developments, recent events in states like Ohio and Wisconsin, where legislation limiting the collective-bargaining rights of public-sector employees has been enacted by Republican-controlled administrations, highlight the significance of legislative developments and are relevant to our findings. On the one hand, the aggressiveness with which governors Scott Walker in Wisconsin and John Kasich in Ohio pursued antilabor legislation may prove to be a watershed moment, akin to the 1980 PATCO's strike, marking a new willingness by public officials to aggressively oppose organizing efforts by their employees. If so, card-check organizing should become a much more preferred method of organizing for public-employee unions.

On the other hand, if public employers become more hostile toward public-sector unions, it seems highly unlikely other states will adopt card-check legislation, leaving public employees in a situation similar to that of their private-sector counterparts. In fact, it is noteworthy that the New Hampshire legislature recently repealed the state's 2007 card-check law.⁵ Perhaps similar actions will be taken in other states that recently passed card-check laws.

Finally, we submit that our results are instructive with regard to the debate surrounding enactment of the proposed card-check legislation for private-sector

employees. Given the positive effects of card-check legislation on organizing activity in the public sector, there should be even greater advantages to unions in the private sector, where unions often confront vehement opposition by profit-minded managements. Private-sector unions should have strong incentives to pursue card-check organizing in order to avoid the aggressive employer opposition they often encounter in election campaigns. Moreover, the relatively lower union-density rates in the private sector may mean there are more ripe organizing targets for unions to pursue. In short, mandatory card-check legislation for private-sector employees, if it were to ever pass, may lead to significant increases in union-organizing activity and union growth.

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Notes

1. The state-ideology and state-partisanship measures we used for our analyses were created by Pacheco (2011). Rather than using an aggregation approach to develop measures of state partisanship and state ideology, Pacheco employs "multilevel modeling, imputation, and post-stratification (MRP) coupled with a simple moving average to measure state public opinion over time" (Pacheco 2011, n.p.).
2. The excluded category includes states that have no bargaining legislation providing unionization and collective-bargaining rights to public-sector employees, as well as two states that explicitly prohibit collective bargaining.
3. Regression results with the year dummy variables, which are included to control for time, are not presented but are available upon request from the authors.
4. A comparison of the two regression coefficients (Precard Check and Postcard Check) also reveals an increase in union-membership levels after the passage of a card-check law. However, the difference between these two coefficients is not statistically significant.
5. Although not involving public-sector workers, Governor Brown's recent veto of a bill allowing California farm workers to organize via card check further suggests that enactment of card-check laws in other states might become increasingly difficult.

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