



Written by [Bruce Walker](#) on September 15, 2011

Florida Teachers Sue to Stop Merit Pay Law

Governor Rick Scott of Florida (left) signed SB 736 into law in March, which requires merit pay for teachers and ends tenure for newly hired school teachers. The Florida Education Association has sued Florida alleging that the legislation is unconstitutional and that it denies teachers their right to collective bargaining.



Cory Williams, one of the teachers included in the lawsuit, said,

The provisions of SB 736 radically transform the teaching profession — and not for the better. The expertise and knowledge of teachers have been ignored throughout this process and our constitutional rights have been trampled.

Although other states have passed laws which weakened tenure and adopted new methods of evaluating teachers, no other state has made teacher merit for pay raises contingent upon how well students do on tests. Michelle Exstrom of the National Conference of State Legislatures observed,

Florida has always been ahead of the curve when it comes to the merit pay issue. They've just struggled to do it in a way that's most effective for students and their teachers. You know what, it's not clear cut how to make this work.

Governor Scott seems undisturbed by the lawsuit. It is the 11th time in his brief term of office that unsuccessful political opponents have resorted to lawsuits to try to stop his agenda. Lane Wright, a spokesman for the Governor, noted:

Regular working folks don't have tenure. Why should bad teachers? Governor Scott is looking out for the students — making sure they get the best teachers in the classroom, while the special-interest teachers union is looking out for bad teachers who pay union dues.

The Foundation for Excellence in Education, a think tank founded by former Governor Jeb Bush, agreed, stating that the teachers' union cared "more about protecting political power than promoting a dynamic, highly-skilled workforce of educators." The foundation is already involved in helping Governor Scott defend lawsuits against similar reforms, such as changing the teachers' pension plan.

The Florida Department of Education spokesman Thomas Butler said that the department would follow the new law, adding,

Although we have not been served yet, we believe strongly in the new law and its focus on improving student performance, recognizing our most effective teachers and identifying teachers who would benefit from additional professional development opportunities.

Not all local education authorities have responded in the same way. Enid Weisman, assistant



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superintendent of the Miami-Dade system, observed, “Law always prevails until it’s overturned by a court. In the absence of that happening, the statute is the statute for now. We go forward with it.”

The Broward Teachers Union has a different feeling:

Education leaders have repeatedly told the governor and legislators that research demonstrates merit pay will not produce the results they are seeking. We know adequately funding public education and reducing class sizes increases student learning outcomes.

The bill mandates that after July 1, 2014 all new teachers hired must be placed on a performance salary schedule. Half of their performance rating will be based upon how well students do, including scores on the Florida Comprehensive Assessment Test.

New Jersey Governor Chris Christie, sometimes mentioned as a Republican presidential candidate, vetoed a bill similar to the one being challenged in Florida. Christie’s veto came after massive teacher protests. But politicians in other states, including Wisconsin and Ohio, have shown more tenacity in dealing with the politically potent teachers’ unions.

Governor Scott Walker in Wisconsin ran a brutal gauntlet in order to remove benefits (not pay) from collective bargaining in the state. This ordeal including the flight of Wisconsin state Senators to prevent a quorum, the overrunning of the state capitol with intimidation of Republican legislatures, efforts to defeat a Wisconsin Supreme Court justice in order to gain a majority to rule against the new law, and finally attempting to recall enough Republican state Senators to flip control of the legislative chamber to Democrats. In every case, Governor Walker prevailed.

The new Governors, who rode into office last November promising to truly change the way state government works by reducing costs, increasing accountability, and keeping taxes and regulations low, have taken their mandate seriously. The power and perks of organized labor has been constrained in large and small ways in a dozen or more states, and these reforms have been primarily directed at public-employees unions. The economic strangulation caused by state regulations has also been tackled head on, especially by Governor Scott in Florida. Laws to use state power to inhibit illegal immigration have passed in several states. Some states, such as Oklahoma, have created a “Second Amendment Day” to recognize the constitutional right to bear arms.

Although constitutionalists know that much of the needed reforms to restore the constitutional republic must be done at the federal level — particularly reining in the autocratic rule of the federal judiciary — much can also be done at the state level, if state politicians have grasped that Americans are yearning for such change. Governor Scott in Florida, and his allies in the Florida Legislature, seem to have gotten the message loud and clear.



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