

Wisconsin recall results and what it means for S.B. 5

August 11, 2011 by [George Asimou](#)

As we recently reported, opponents of [changes to Ohio's Public Employees' Collective Bargaining Law](#) (popularly known as S.B. 5) recently succeeded in collecting the signatures necessary to place the issue of overturning S.B. 5 on the 2011 November ballot. We also noted that [polling from the Quinnipiac University Polling Institute](#) indicated that 56% of respondents favor repeal, while 32% support keeping the law in place.

Tuesday night, [Wisconsin voters in six state senate districts went to the polls](#) to vote on the proposed recall of six Republican state senators who voted in favor of similar (arguably, more aggressive) public bargaining reform proposed by Wisconsin Governor Scott Walker and passed by the Wisconsin State Assembly amid much partisan rancor. Republicans retained four of the six seats contested, narrowly averting the loss of a third seat that would have tipped the Wisconsin Senate majority in favor of the Democrats.

Given the significant role of organized labor in pushing for the recall elections, much commentary will no doubt be devoted to characterizing Tuesday night's Wisconsin election results as a public rebuke of advocates for public employee collective bargaining – and tea leaves will be read for what the Wisconsin election results mean for the prospects of S.B. 5 in Ohio.

As an initial matter, let's not forget that, while we are all citizens of what our friends on the coasts endearingly refer to as "flyover country", Wisconsin and Ohio are two different states with their own distinctive and differing politics. Setting aside that quibble, however, here are a couple of take-aways from Tuesday night's Wisconsin results:

- 1. The Fight Over Public Employee Collective Bargaining Rights Has Become A Proxy for More Conventional Party Politics.** As much as we labor law wonks enjoy a spirited public debate over state employee bargaining laws, the campaigns leading up to Tuesday night's recall elections focused on a variety of issues otherwise circulating in the current national discourse from entitlement reform to corporate tax rates. In the end, it seems likely that Tuesday night was about showing strength for one preferred partisan agenda or the other, rather than competing visions of public employment.
- 2. The Referendum on S.B. 5 Will Likely Be Fought Along Similar Lines.** As we noted previously, the polling on S.B. 5 was very much a mixed bag. While a strong majority favored repeal, similar majorities favored mandatory minimums

on public employee health care and pension contributions and basing pay on merit rather than seniority. Whether the dueling S.B. 5 campaigns try to parse these divergent voter sentiments or simply focus on making the referendum a litmus test on the two parties' competing national agendas remains to be seen – but partisan pie fighting tends to be an easier sell than nuanced debate over public employee rights.

More polling on S.B. 5 will be no doubt be in the offing in the wake of the Wisconsin results. We will report further as the campaigns continue.