Class War

How public servants became our masters

Steven Greenhut from the February 2010 issue Reason Magazine

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In April 2008, *The Orange County Register* published a bombshell of an investigation about a license plate program for California government workers and their families. Drivers of nearly 1 million cars and light trucks—out of a total 22 million vehicles registered statewide—were protected by a "shield" in the state records system between their license plate numbers and their home addresses. There were, the newspaper found, great practical benefits to this secrecy.

"Vehicles with protected license plates can run through dozens of intersections controlled by red light cameras with impunity," the *Register*'s Jennifer Muir reported. "Parking citations issued to vehicles with protected plates are often dismissed because the process necessary to pierce the shield is too cumbersome. Some patrol officers let drivers with protected plates off with a warning because the plates signal that drivers are 'one of their own' or related to someone who is."

The plate program started in 1978 with the seemingly unobjectionable purpose of protecting the personal addresses of officials who deal directly with criminals. Police argued that the bad guys could call the Department of Motor Vehicles (DMV), get addresses for officers, and use the information to harm them or their family members. There was no rash of such incidents, only the possibility that they could take place.

So police and their families were granted confidentiality. Then the program expanded from one set of government workers to another. Eventually parole officers, retired parking enforcers, DMV desk clerks, county supervisors, social workers, and other categories of employees from 1,800 state agencies were given the special protections too. Meanwhile, the original intent of the shield had become obsolete: The DMV long ago abandoned the practice of giving out personal information about *any* driver. What was left was not a protection but a perk.

Yes, rank has its privileges, and it's clear that government workers have a rank above the rest of us. Ordinarily, if one out of every 22 California drivers had a license to drive any way he chose, there would be demands for more police power to protect Californians from the potential carnage. But until the newspaper series, law enforcement officials and legislators had remained mum. The reason, of course, is that the scofflaws *are* law enforcement officials and legislators.

Here is how brazen they've become: A few days after the newspaper investigation caused a buzz in Sacramento, lawmakers voted to *expand* the driver record protections to even more government employees. An Assembly committee, on a bipartisan 13-to-0 vote, agreed to extend the program to veterinarians, firefighters, and code officers. "I don't want to say no to the firefighters and veterinarians that are doing these things that need to be protected," Assemblyman Mike Duvall (R-Yorba Linda) explained.

Exempting themselves from traffic laws in the name of a threat that no longer exists is bad enough, but what government workers do to the rest of us on a daily basis makes ticket dodging look like child's play. Often under veils of illegal secrecy, public-sector unions and their political allies are systematically looting the public treasury with gold-plated pensions, jeopardizing the finances of state and local governments around the country, removing themselves from legal accountability, and doing it all in the name of humble working men and women just looking for their fair share. Government employees have turned themselves into a coddled class that lives better than its private-sector counterpart, and with more impunity. The public's servants have become our masters.

Good Enough for Government Work

There was a time when government work offered lower salaries than comparable jobs in the private sector but more security and somewhat better benefits. These days, government workers fare better than private-sector workers in almost every area—pay, benefits, time off, and job security. And not just in California.

According to a 2007 analysis of data from the U.S. Bureau of Labor Statistics by the *Asbury Park Press*, "the average federal worker made $59,864 in 2005, compared with the average salary of $40,505 in the private sector." Across comparable jobs, the federal government paid higher salaries than the private sector three times out of four, the paper found. As Heritage Foundation legal analyst James Sherk explained to the *Press*, "The government doesn't have to worry about going bankrupt, and there isn't much competition."

In February 2008, before the recession made the disparity much worse, *The New York Times* reported that "George W. Bush is in line to be the first president since World War II to preside over an economy in which federal government employment rose more rapidly than employment in the private sector." The Obama administration has extended the hiring binge, with executive branch employment (excluding the Postal Service and the Defense Department) slated to grow by 2 percent in 2010—and more than 15 percent if you count temporary Census workers.

The average federal salary (including benefits) is set to grow from $72,800 in 2008 to $75,419 in 2010, CBS reported. But the real action isn't in what government employees are being paid today; it's in what they're being promised for tomorrow. Public pensions have swollen to unrecognizable proportions during the last decade. In June 2005, *BusinessWeek* reported that "more than 14 million public servants and 6 million retirees are owed $2.37 trillion by more than 2,000 different states, cities and agencies," numbers that have risen since then. State and local pension payouts, the magazine found, had increased 50 percent in just five years.

These huge pension increases have eaten away at public finances, most spectacularly in California, where a bipartisan bill that passed virtually without debate unleashed the odious "3 percent at 50" retirement plan in 1999. Under this plan, at age 50 many categories of public employees are eligible for 3 percent of their final year's pay multiplied by the number of years they've worked. So if a police officer starts working at age 20, he can retire at 50 with 90 percent of his final salary until he dies, and then his spouse receives that money for the rest of her life. Even during the economic crisis, "3 percent at 50" and the forces behind it have only become more entrenched.

In the midst of California's 2008–09 fiscal meltdown, with the impact of deluxe public pensions making daily headlines, the city of Fullerton nevertheless sought to retroactively increase the defined-benefit retirement plan for its city employees by a jaw-dropping 25 percent. What's more, the Fullerton City Council negotiated the increase in closed session, outside public view. Under California's open meetings law, known as the Brown Act, even legitimate closed-session items such as contract negotiations are supposed to be advertised so that the public has a clear idea of what's being discussed. But the Fullerton agenda for that night only vaguely referred to labor negotiations.

Four of the five council members—two Republicans and two Democrats—seemed to support the deal. But Republican Shawn Nelson, a principled advocate for limited government, didn't appreciate the way the council was obscuring not only the legitimately secret details of the negotiations but the basic subject matter. He called me at the *Register* (where I worked at the time) and, without revealing details of the closed session, shared his concerns about the way the public had not been alerted. After I wrote about the secret, fiscally reckless deal, the recriminations came down in a hurry: on Shawn Nelson.

Not surprisingly, the liberal council members were furious that the public had been informed about what was going on. But some conservative Republicans, including a prominent state senator, Dick Ackerman of Irvine, were angry as well, because Nelson's willingness to talk embarrassed a Republican councilman whom the GOP was backing for re-election. When I later bumped into Ackerman at the Republican National Convention in St. Paul, he laid into me about Nelson's supposed violation of the Brown Act. Some officials and bloggers actually called for Nelson to be prosecuted. Local union mouthpieces and fellow council members portrayed the whistleblower as a common criminal, even though he was merely acting in the spirit of the open meetings law and showing the kind of fiscal responsibility you would hope to see in public officials.

In its embarrassment, the city council voted against the deal at the last minute, but only after council members publicly chastised Nelson, accused me of libel, and vowed to come back for more when the timing was right. One Republican councilman couldn't figure out what the fuss was all about, given that the council enhances public employee pay and pensions all the time.

Pension Tsunami

Although Americans may have a vague sense that the nation has run up a great deal of debt, the public employee benefit problem is not well known. Yet the wave of benefit promises is poised to wash away state and local government budgets and large portions of the incomes of most Americans. Most of these benefits are vested, meaning that they have the standing of a legal contract. They cannot be reduced. And the government employees' allies, such as California's legislative Democrats, are cleverly blocking some of the more obvious exit strategies.

For instance, when the city of Vallejo went bankrupt after coughing up 75 percent of its budget to police and firefighters, the state Assembly introduced legislation that would allow cities to go bankrupt only if they get approval from a commission. Such a commission would of course be dominated by union-friendly members. The result: Cities would be stuck making good on contracts they cannot afford to fulfill.

When the economy was booming, these structural problems could be hidden. But not now. As debt loads become unsustainable, you can expect cuts in services, tax increases, pension-obligation bonds, or some combination of the three.

In California unfunded pension and health care liabilities for state workers top $100 billion, and the annual pension contribution has shot up from $320 million to $7.3 billion in less than a decade. In New York state, local governments may have to triple their annual pension contributions during the next six years, from $2.6 billion to $8 billion, according to the state comptroller.

That money will come from taxpayers. The average private-sector worker, who enjoys a lower salary and far lower retirement benefits than New York or California government workers, will have to work longer, retire later, and pay more so that his public-employee neighbors can enjoy the lifestyle to which they have become accustomed. The taxpayers will also have to deal with worsening public services, since there will be less money to pay for things that might actually benefit the public.

In July 2009, Orange County, California, Sheriff Sandra Hutchens proposed more than $20 million in budget cuts to close the gap caused by falling tax revenue. Her department slashed 40 percent of its command staff, cut a total of about 30 positions, and made changes that affected about 200 positions through reassignments, demotions, new overtime rules, and other maneuvers. “These are services that we believe are quite important to maintaining public safety, that we’re just not going to be able to continue,” department spokesman John MacDonald told the *Los Angeles Times*.

The sheriff failed to identify another reason for the tight budget: In 2001 the Orange County Board of Supervisors had passed a retroactive pension increase for sheriff’s deputies. That policy nearly doubled pension costs from 2000 to 2009, when pension contributions totaled nearly $95 million—20 percent of the sheriff’s budget. So the sheriff decries an economic downturn that is costing her department about $20 million, but she doesn’t mention that a previous pension increase is costing her department more than double that amount. It’s safe to say that had the pension increase not passed, the department would have money to keep officers on the streets and to avoid the cuts the sheriff claims are threatening public safety.

Chief’s Disease

One would think that a “3 percent at 50” retirement would be a good enough deal for most people. Most workers in the private sector would probably jump at such an opportunity. But many public safety officials aren’t satisfied with a system that allows them to retire with 90 percent or more of their final year’s pay at young ages. They feel compelled to game the system in ways that stretch or break the law.

A large percentage of public safety officials —more than two-thirds of management-level officials at the California Highway Patrol, for instance—come down with something widely known as “Chief’s Disease” about a year before their scheduled retirement. “High-ranking [CHP] officers, nearing the end of their careers, routinely pursued disability claims that awarded them workers’ comp settlements,” John Hill and Dorothy Korber of the *Sacramento Bee* reported in 2004. “That, in turn, led in many cases to disability retirements. As they collected their disability pensions, some of these former CHP chiefs embarked on rigorous second careers—one as assistant sheriff of Yolo County, for example, another as the security director for San Francisco International Airport.”

When Mike Clesceri was mayor of Fullerton (a part-time position filled by a city council member), he also worked as an investigator for the Orange County District Attorney's Office. As his retirement approached, Clesceri claimed to have an extreme case of acid reflux, which would help him net a tax-free pension of $58,000 a year, plus cost-of-living increases. Even while retired with that alleged disability, Clesceri pursued a local police chief's job, retained his mayorship, and ran a tough re-election campaign. He even had the time to have his brother-in-law, an attorney, send threatening letters to members of the community who commented on the absurdity of his disability pension. As Clesceri explained in a newspaper column, the disability only applied to his job at the D.A.'s office.

The exposure of this abuse ultimately galvanized the public to boot Clesceri off the Fullerton City Council. The problem is most of these situations never get aired publicly.

Other state employees go to great lengths to find the highest-paying job they can in their final year, thereby locking in their permanent retirement benefit based on a salary they made only once. *Bee* reporters Hill and Korber told the story of Sharon McGraw, a Sacramento-area accounting manager for the state who moved from her suburban home to a tiny apartment in the San Francisco Bay area so she could temporarily take a high-paying job that would increase her pension benefit by $18,000 a year.

Then there's the bizarre story of Armando Ruiz, a part-time trustee for the Coast Community College District in Southern California. Ruiz also worked full time as an administrator with the South Orange County Community College District. Ruiz wanted to run for re-election as a trustee and use the "incumbent" label on his ballot, but he also wanted to take advantage of a strange California law that dramatically increases an employee's pension payout if he retires from two jobs on the same day.

"Ruiz 'retired,' effective Oct. 31, as a part-time trustee of the Coast district and as a full-time counselor at Irvine Valley College," *Register* columnist Frank Mickadeit reported in 2008. "Even though the trustee gig pays just a $9,800 annual stipend, he was able to calculate his state pension as if he had been paid $106K a year for that 'job' plus the $106K a year he got for his real job at Irvine. So, based on a $212K salary he never really made, his pension will work out to about $108K a year for life. Otherwise, the pension would have been $59K—$54K for the real job; $5K for the trustee job. Even though Ruiz was officially retired from the Coast district board, he was still listed on Tuesday's ballot as an incumbent. A cynical person might say that by waiting to 'retire,' just days before the election Ruiz knew it would be too late to change the ballots. And incumbents rarely lose such elections."

The only good news from that scam: After Ruiz's maneuver was exposed, the state legislature repealed the incomprehensible pension-spiking rule. But the pending pension crisis, with its thousands of abuses undetected by outside scrutiny, continues to loom over our heads.

The Public Sector Menace

In the summer of 2009, various Democratic candidates for California attorney general came before the Police Officers Research Association of California, a union lobbying organization, to ask for its support. According to one attendee (who asked to remain anonymous, given the obvious repercussions for his career), the organization had two basic questions for Assemblymen Ted Lieu (D-Torrance), Alberto Torrico (D-Newark), and Pedro Nava (D–Santa Barbara), each a candidate in the 2010 attorney general race. The first: Did they support the death penalty for cop killers? The second: Would each candidate, as attorney general, make sure the official summary of a state pension reform proposal would be slanted to destroy its chances of passing?

In California crafting ballot language is one of the most important jobs of the state's attorney general. The police union officials reminded the candidates that 90 percent of voters read nothing more than the ballot title and summary, and they emphasized the importance of putting the kibosh to the measure. My source was appalled, not just by the directness of the question but by the eagerness with which the candidates, especially Torrico, answered it. They all promised they would help kill the measure.

Public-sector unions have a growing influence in state and federal governments, and in the overall labor movement, but they are a relatively recent phenomenon. Civil service unionization in the federal government wasn't allowed until President John F. Kennedy issued an executive order legalizing it in 1962. In California it didn't become legal until 1968. Yet now California may be spearheading the re-unionization of the country.

In a 2003 study of union membership rates, the sociologists Ruth Milkman and Daisy Rooks explained that "California stands out as an exception to the general pattern of the past decade. Against all odds, union density has inched upward in the nation's most populous state, from 16.1 percent of all wage and salary workers in 1998 to 17.8 percent in 2002."

The study was produced by the University of California Institute for Labor and Employment, itself a testament to union power in the Golden State. Critics call the institute Union University, arguing that the state is funding a left-wing advocacy and research organization that advances union causes. As the *Los Angeles Times* explained in a 2004 article about the controversy, "For years these programs received the majority of their funding from the budgets of the universities where they are housed. Then in the 2000–01 budget, former Gov. Gray Davis approved $6 million to create the institute encompassing the two centers and charged with carrying out 'research, education and service involving the world of work, and the public and private policies that govern it.' "

In the 2003 study, Milkman and Rooks found that union growth in California's public sector has far outpaced such growth in other states, for an obvious reason: "Organized labor has more political influence in California than in most other states." In more-recent studies, the Institute for Labor and Employment found that for the first time in five decades, U.S. unionization rates actually *increased* in 2008. The reason: increases in California, mainly in the government sector.

At all levels, state and local government employment grew by 13 percent across the United States from 1994 to 2004. The number of judicial and legal employees increased by 28 percent. The number of public safety workers increased by 21 percent. The number of teachers increased by 22 percent.

Michael Hodges' invaluable *Grandfather Economic Report* uses the Bureau of Labor Statistics to chart the growth in state and local government employees since 1946. Their number has increased from 3.3 million then to 19.8 million today—a 492 percent increase as the country's population increased by 115 percent. Since 1999 the number of state and local government employees has increased by 13 percent, compared to a 9 percent increase in the population.

The United States had 2.3 state and local government employees per 100 citizens in 1946 and has 6.5 state and local government employees per 100 citizens now. In 1947, Hodges writes, 78 percent of the national income went to the private sector, 16 percent to the federal sector, and 6 percent to the state and local government sector. Now 54 percent of the economy is private, 28 percent goes to the feds, and 18 percent goes to state and local governments. The trend lines are ominous.

Bigger government means more government employees. Those employees then become a permanent lobby for continual government growth. The nation may have reached critical mass; the number of government employees at every level may have gotten so high that it is politically impossible to roll back the bureaucracy, rein in the costs, and restore lost freedoms.

People who are supposed to serve the public have become a privileged elite that exploits political power for financial gain and special perks. Because of its political power, this interest group has rigged the game so there are few meaningful checks on its demands. Government employees now receive far higher pay, benefits, and pensions than the vast majority of Americans working in the private sector. Even when they are incompetent or abusive, they can be fired only after a long process and only for the most grievous offenses.

It’s a two-tier system in which the rulers are making steady gains at the expense of the ruled. The predictable results: Higher taxes, eroded public services, unsustainable levels of debt, and massive roadblocks to reforming even the poorest performing agencies and school systems. If this system is left to grow unchecked, we will end up with a pale imitation of the free society envisioned by the Founders.

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