# The Professionals Guild of Ohio


# PGO UNION NEWS

**July/August 2011**



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## SB 5 Makes the Ballot

It's official: the referendum on SB 5 will be on the ballot in November! The secretary of state announced on July 21st that an astounding 915,456 signatures had been certified, although only 231,149 signatures were necessary to make the ballot. Just as remarkable is that we met the minimum number of signatures required in at least half the counties (3 percent of the total number of votes for governor in the last gubernatorial election from at least 44 counties) in ALL 88 COUNTIES!! Outstanding! Our congratulations and thanks goes out to everyone that worked to make this happen.

## PGO's New President

PGO's election this June marked the transition of Union leadership from long-time president Kay Cox to new president and immediate past vice president Eric Kanthak. Over the years Kay has selflessly given of her time and energy to lead PGO and serve its many members throughout the state. Thank you Kay for the many years of dedicated service you gave to your Union.

Also elected to serve two year terms were Vice President Joe Atkinson, Treasurer Jenny Gardner and Secretary Jane Hay. Congratulations.

## This is What Democracy Looks Like

*By Amelia Woodward, Esq., PGO Field Representative*

SB 5, the anti-union bill that would strip away collective bargaining rights for all Ohio public employees, was set to take effect on July 1, 2011. However, the law did not go into effect while the referendum petitions were being circulated and validated by the secretary of state and county boards of election. Now, thanks to the million plus citizens signing our petitions, the law will remain in limbo until the voters decide the matter in November.

While this is a tremendous accomplishment, our fight continues. Greedy corporate bosses and their political allies will work hard to drive a wedge between various factions of working people. They will campaign to convince voters that public employees are overpaid and receive "Cadillac health care" and "golden pension plans" that workers in the private sector do not get. These are a few of the myths created by the proponents of bills like SB 5 to cause confusion and divide working people.

The fact is that Ohioans should be outraged that the people who created our global economic mess are STILL raking in the dough! Work-

ing people have taken a lot of concessions since wall street crashed three years ago and union members are still making concessions while the economy continues to struggle. ***Public employees are not the problem!***

In today's "great race to the bottom," we should not have to apologize for negotiating decent wages and benefits for our members. Instead, we should be focused on ensuring that every worker receives decent benefits and fair wages.

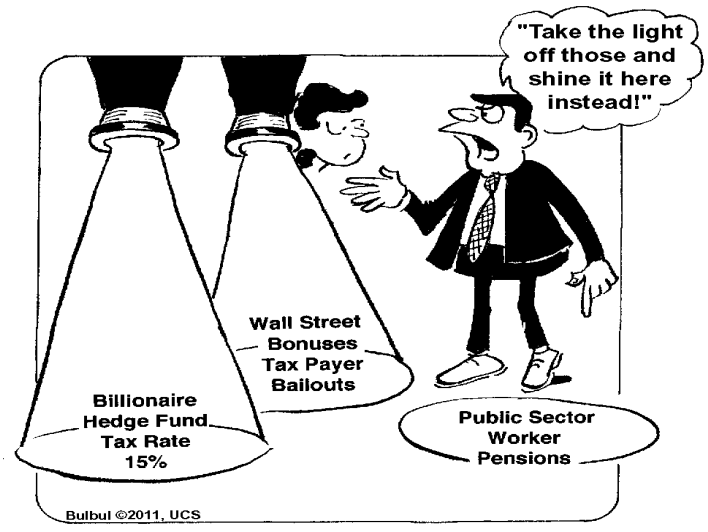
The fight is not over yet and a lot of work remains before total victory is achieved. It is now up to us to inform voters to reject SB 5. To effectively communicate this message we must know the facts. Here are a few of the myths used to justify SB 5 and the truth you may be able to use to refute those myths when discussing SB 5. The following information is provided courtesy of the We Are Ohio campaign website:

**MYTH**: Rolling back collective bargaining rights is needed to help managers do their jobs.

**TRUTH**: Ohio passed a law in 1983 to establish collective bargaining for state workers. The 1983 law has reduced labor strife, and increased professional training and productivity.

**MYTH**: Public employees have too much power and the public agrees.

**TRUTH**: A recent Quinnipiac Poll found that only 34 percent of the people in Ohio support SB 5 and 52 percent oppose it.




## Friend us on Facebook

Are you looking for the latest union news? Are you interested in what is going on at the PGO? If you have a Facebook account, you are in luck! The PGO has started a facebook page to keep members up to date on the recent happenings in the labor movement and at your Union. Search for "Professionals Guild of Ohio" and "Like" our page.

**MYTH:** Public employees need to make a sacrifice to reduce the state's projected $8 billion budget shortfall.

**TRUTH:** Ohio is 44th of 50 states in per capita spending on government workers. State employees have taken a pay freeze five times in 9 years. In the last contract, state employees voluntarily took furloughs and made other financial sacrifices that saved $250 million and an additional $100 million in health care costs. In addition, PGO councils have also made concessions and agreed to wage freezes over the past few years as well.

**MYTH:** SB 5 is needed to help balance the budget and stimulate job growth.

**TRUTH:** SB 5 destroys jobs and lowers wages. You cannot create jobs by destroying jobs. If SB 5 passes, owners of shops, gas stations and other small businesses across this state will be forced to lay-off workers or close their doors.

## PGO Council 14 Settles Reopener

The PGO Council 14 bargaining team met with Aurora Academy management in mid-June to negotiate a reopener on wages and insurance for the 2011-2012 school year. PGO is pleased to report that the parties have settled negotiations. While there will not be a general salary increase, returning employees will receive their 2 percent step increase if eligible, a $150 lump sum bonus and no reduction in insurance benefits. Thanks goes out to ***Amanda Weygand***, PGO Council 14 President, and ***Lindsey Wagner***, PGO Council 14 Vice President and PGO Field Representative ***Amelia Woodward*** for their work on the bargaining team.

## FMLA Leave and Disability Leave

*By John Campbell-Orde, Esq., PGO General Counsel*

Many readers are familiar with the Family and Medical Leave Act (FMLA), which requires employers to offer covered employees twelve weeks of protected leave each year, where the employees or their immediate family members suffer from a serious health condition. Most readers also are familiar with the Americans with Disabilities Act (ADA). The ADA provides important protections to employees who have disabilities.

What readers might not know, however, is that sometimes the protections offered by the FMLA and the protections offered by the ADA overlap. Thus, an employee who qualifies for FMLA leave due to a serious health condition might also be entitled to additional protection under the ADA. New ADA regulations increase the likelihood that employees suffering from a serious health condition might qualify for protection under the ADA as well. Having the additional ADA protection can be important because it might require an employer to offer an employee more than the twelve weeks of protected leave required by the FMLA.

If you are suffering from a serious health condition that qualifies you for FMLA leave, you should ask yourself whether you might qualify for protection under the ADA as well. For instance, employees suffering from diabetes may qualify for FMLA leave because they have a chronic health condition, and diabetics will virtually always be protected under the ADA. Similarly, someone suffering from cancer will virtually always qualify for FMLA leave and will virtually always qualify for protection under the ADA as well. Employers must provide reasonably accommodations to employees who are considered disabled under the ADA. Accommodations can include many different things, including the right to take leave from work.

Therefore, ADA protections can be important because they can require employers to accommodate employees by providing them with more leave than they are entitled to under the FMLA. Employees who exhaust their twelve week annual allotment of FMLA leave and are still unable to return to work can be terminated from employment. However, employees who are protected by the ADA in addition to the FMLA might be entitled to time in addition to the twelve weeks of FMLA leave, as a reasonable accommodation for their disability. Employees may be entitled to leave as a reasonable accommodation in order to obtain medical treatment, recuperate from the illness or disability, or for other reasons.

As with FMLA leave, ADA leave can be taken either in one extended block or intermittently depending on the circumstances. Consequently, employees who have exhausted their twelve weeks of FMLA leave but qualify for protection under the ADA, may in some cases be entitled to take additional, job-protected leave and thus could be on leave from work for thirteen weeks or perhaps more, in contrast to employees who only qualify for FMLA leave.

Additionally, since under the ADA intermittent leave may be a required accommodation, employees who have exhausted all their FMLA leave may still be entitled to take leave from work from time to time for treatment, to recover from issues associated with their disability, or for other qualifying reasons, if they have the protection of the ADA. This could even include employees working part time for some specified period.

If you believe that you might be entitled to the protections of both the FMLA and ADA, feel free to contact a PGO staff member with questions.


**"It's not exactly the sort of morale booster I had in mind..."**

## No Fault Attendance Policy & Americans With Disabilities Act

*By John Campbell-Orde, Esq., PGO General Counsel*

The Equal Employment Opportunity Commission (EEOC) recently reached a $20 million dollar settlement with Verizon over Verizon's no-fault attendance policy. Verizon's subsidiaries had no-fault attendance policies, under which certain numbers of absences resulted in discipline or even discharge from employment. These policies failed, however, to take into consideration instances where employees missed work due to a qualifying disability under the Americans with Disabilities Act (ADA).

As discussed in the earlier article concerning the interaction between the ADA and FMLA leave, having a disability under the ADA entitles employees to reasonable accommodations for the disability. As also discussed in the earlier article, reasonable accommodations can include many things, including in some instances absences from work that are due to the disability or treatment for the disability. Unlike with the FMLA, employees do not have to work for an employer for a specific amount of time before qualifying for protection under the ADA.

If you believe that you may suffer from a disability, informing your employer about the disability and requesting reasonable accommodation is crucial to ensuring that your rights are protected. Before doing so, however, you should speak with an attorney or with PGO regarding your situation so that your employer does not question your ability for continued employment. Once you have properly informed your employer about your disability and requested reasonable accommodation for the disability, you can enjoy the workplace protections afforded by the ADA. The multi-million dollar Verizon settlement is thanks in part to union efforts. The Communications Workers of America union had filed one of the charges that ultimately led to the settlement with the EEOC.


**"You had better have a good excuse to leave work early!"**

## Supreme Court Deals a Loss to Women Everywhere

*By Amelia Woodward, Esq., PGO Field Representative*

The United States Supreme Court recently heard arguments on one simple question: whether the largest class of litigants to bring a lawsuit could proceed on their claim that Wal-Mart discriminated against them because they are women. The question wasn't whether Wal-Mart discriminated, only whether the women who were suing could sue together, saving the court system the time and expense of adjudicating each of their lawsuits individually.

The Court split along ideological lines on this question, with the majority of the Court reversing the certification of the class by the Ninth Circuit Court of Appeals. The Court's majority, composed of the five conservative justices, ultimately could not find commonality between the women in answering the question: why were these plaintiffs discriminated against? The obvious common denominator is quite simply that women as a class are treated differently by Wal Mart.

This Supreme Court decision will not prohibit the millions of female Wal-Mart employees from suing Wal-Mart for sex discrimination, but it seems that it will now be much more difficult for female employees that are passed over for promotion, paid less than a man, or discriminated against in other ways simply because they are women, to bring individual lawsuits. Maybe Wal-Mart will be organized soon and these inequities will be eliminated through collective bargaining and union representation. Let's hope so.