

# **UAW INSIGHT**

The following information is taken from the Indiana State AFL-CIO web page at:

<http://in.aflcio.org/statefed/index.cfm?action=article&articleID=82b66b07-ff6d-4e9d-925e-b5f3e7deb01c>

## ***What is “right to work?”***

“Right to work” laws (allowed by the Taft-Hartley Act of 1947) prevents employers and employees from negotiating a type of agreement (a union security clause) that requires all workers who receive the benefits of a collective bargaining agreement to pay their share of the costs of representing them. These laws require unions to represent every eligible employee, whether or not he or she pays dues. In other words, “right to work” laws allow workers to pay nothing and still get all the benefits of union membership, collective bargaining and contract enforcement.

Right to work has nothing to do with worker rights vis-à-vis their employer. It does not impact “employment-at-will” relationships. It has nothing to do with unemployment.

22 states currently have “right to work” laws (most of them are rural and Southern) and most of them enacted the legislation shortly after the passage of Taft-Hartley.

## ***What is a union security agreement?***

A union security agreement is the product of negotiation between employer and union and requires that, after a union has become an authorized representative of the employees in a bargaining unit, all employees in that unit must pay their fair share of the cost of that representation.

Pursuant to federal law, when a union has been authorized it has a legal duty to represent every employee in the bargaining unit without regard to whether that employee is a participant in the union, or any other factor.

## ***Why do union members oppose “right to work” laws?***

These laws aren’t fair to dues-paying members. If a worker who is represented by a union and doesn’t pay dues is fired illegally, the union must use the dues paying employee’s money to defend the non-payer. Such representation may require going through a costly, time-consuming legal process.

## ***Can a union unilaterally impose a union security agreement?***

No. The employer and the union must negotiate a union security agreement. If management refuses, there is no union security agreement.

***Is a union required to represent all employees covered by a contract (nonmembers as well as members)?***

Yes. Under federal labor law, unions have the duty to fairly represent all workers covered by a contract. That means nonmembers who pay no share as well as members get the same wages, hours and working conditions established by the contract.

Unions must bargain for everyone and enforce the contract terms for everyone in a fair, honest, nondiscriminatory manner. Unions cannot refuse to pay the costs of arbitrating a grievance simply because it involves a nonmember. A union that violates this duty of fair representation can be sued. This duty of fair representation applies whether or not the state has a “right to work” law.

***Why would an employer agree to a union security clause?***

Many employers want to avoid the divisions and animosity that occur when some workers have to pay the costs of representing nonpaying employees.

***What is the effect of RTW laws?***

These laws create a tyranny of the minority, allowing individuals to subvert democratic decisions made by a majority of their peers. They financially weaken, and eventually cripple, unions by requiring them and their members pay for the representation of those who opt out but benefit from the union’s representation.

Union membership in so-called “right to work” states is less than ½ that in free-bargaining, democratic rule states. As a result, median family income is lower, more are uninsured, the wage gaps for women and minorities is greater, schools spend less per pupil and perform less well, and infant mortality is higher.

***Do RTW laws impact economic development?***

Of course, and so did abolition, the advance of the union movement, and every other advancement in human rights for workers.

But while RTW proponents proclaim that the lack of such laws is a significant barrier to economic development, and even that most businesses use a lack of RTW laws at the outset of relocation decisions to exclude states from consideration, businesses are telling a different story.

Senior management officials of scientifically sampled businesses do not report utilizing such laws as a major factor. In a January, 2005, study commissioned by the Committee of 100 for Economic Development and the Louisiana Governor’s Office designed to measure the importance of certain factors in relocation decisions, the existence of right to work laws ranked 24th out of 26 factors rated (just above personal outreach from state officials and a thriving arts community).

Despite being frequently pointed to by RTW advocates as an example of corporations pursuing a RTW location strategy, the senior vice president of Toyota Motor Manufacturing of America recently stated

that Toyota wouldn't make a decision based on RTW laws. ("Toyota Might Pick Pro-Union Plant Site" Detroit Free Press, April 19, 2006).

### ***Do RTW laws make unions more responsive to their members?***

No. In fact, they make unions less responsive to the majority of their members and allow the tail to wag the dog. They cripple the basic principles which guide this country and turn them on their head. In a democracy, it is understood that when there are decisions to be made, all persons stand on equal footing and vigorous debate is healthy – and then there is a fair election. After the election, everybody continues to have the rights *and obligations* of citizenship, and the cycle renews. Where RTW laws are in place, they allow the minority to avoid all obligations of citizenship (even paying for basic services provided) and bankrupt the majority to frustrate its will.

Unions are already the most democratic and responsive membership organizations around. They are the only membership organizations whose elections procedures are controlled by federal law and are mandated to operate on a one person/one vote basis. A union member may affect the decisions of his/her union just as can any citizen in a democratic world – s/he can agitate and persuade within the organization or run for office. Where the majority agrees, s/he will prevail. An aggrieved union member can appeal to the union's international governing body for assistance if the local union leadership fails to service him/her adequately. In addition, the union member can appeal to the National Labor Relations Board and bring charges against the union for its perceived failure to represent him/her adequately. Union members, in concert with a sizeable minority of their peers, can demand a decertification election where the membership is asked to reject the union's representation altogether. And, finally, if all of these avenues continue to leave that union member unsatisfied, that member can resign membership under the *GM* and *Beck* decisions, and pay only his or her fair cost of the union's collective bargaining representation.

### **NEGATIVE ECONOMIC IMPACTS OF RTW LAWS**

***Wages for all workers are driven down.*** Both union and non-union workers in states with these laws make an average of \$5,538 less a year than those that live in states without the law.

***Benefits are reduced.*** Employers in "rtw" states are less likely to offer benefits and workers are losing health insurance coverage 70 percent faster than those in other states.

***Workplace safety suffers.*** According to the U.S. Bureau of Labor Statistics the rate of workplace deaths is 50 percent higher in "rtw" states.

***Overall quality of life declines.*** In addition to the decreased buying power of those in "rtw" states, the infant mortality rate is 16 percent greater while the poverty rate for all people is 19 percent higher and is 26 percent higher for children. Seven of the 10 poorest states are "rtw" states.

## **Q&A ON “RIGHT TO WORK”**

### **Will a RTW law prevent you from joining or maintain a union? If not, then what’s the problem?**

No it will not prevent anyone from joining a union. It will however render unions virtually useless by allowing a few freeloaders to abuse the system and thereby silence the voice of all workers at a workplace.

### **You say it’s unfair to have “free loaders” – isn’t it unfair to force someone to join a union?**

Under federal law, no one can be forced to join a union. In a unionized facility, workers can be required to pay their fair of the costs associated with negotiating their contract.

It’s like living in a condo. Prospective buyers know going in that they must pay a mortgage and that condo fees exist. They can choose to buy that condo (i.e. work at the facility) or walk away. Once the condo is purchased they pay fees to the condominium association for shared services. It would be unfair for a condo resident to receive those community benefits without paying for them. By contract this is not allowed. The same principle applies to a union contract.

### **If a union is doing its job, won’t members want to stay in that union regardless of a RTW law or not?**

If you can get the same services without paying for it, who wouldn’t do that? That is the situation the federal government has put unions in. We must represent all workers whether they pay for services or not.

### **You say that RTW will hurt families’ economic security, but if it brings more jobs here won’t that help?**

There’s no evidence RTW will bring more jobs. The last state to adopt RTW saw development slow, rather than quicken after it passed. And Indiana outperformed Iowa (the only upper Midwest RTW state according to the chamber’s own numbers).

More jobs are great, but we need more jobs that pay a living wage, not more minimum wage jobs.

RTW drives down wages and invites in low-wage, dead end jobs.

### **RTW will create jobs/Improve the economy – why are unions opposed?**

This is not true. RTW states fared as poorly as other states in the recent economic downturn.

RTW will hurt Indiana workers

Union and non-union workers in states with these laws make an average of \$5,538 less a year than those that live in states without the law.

Employers in “rtw” states are less likely to offer benefits and workers are losing health insurance coverage 70 percent faster than those in other states.

With the reduction of wages and benefits, Indiana’s economy stands to lose an estimated \$17.3 billion as fewer dollars are circulated through the economy by Hoosier workers.

According to the U.S. Bureau of Labor Statistics the rate of workplace deaths is 50 percent higher in “rtw” states.

**It's a "falsehood" that a union must represent all eligible employees, whether or not they pay dues.**

In fact, where the union is the exclusive representative of a group of similarly situated workers with common interests -- what the law calls a "bargaining unit" -- the union does have a strict legal obligation to represent all workers, whether members or not, and all are entitled to all rights and benefits of the collective bargaining agreement.

Those who say this false claim are advocating that unions and workers surrender the option of a union becoming the exclusive representative of a bargaining unit, which the union can attain only by operation of majority decision in the first place, and deal with employers only on behalf of the union's own members. That would return unions and workers to an era of employer dominance not seen since the dawn of the Great Depression, before the National Labor Relations Act empowered workers to organize with the force of law to protect them.

**Won't passing RTW increase per-capita income?**

This is a misnomer because per capita income includes all forms of income. Most working people earn wages; most of CEO's earn income from their generous stock options. The more accurate number to look at is wages – and in RTW states the wages are on average \$5,500 lower than non-RTW states.

**RTW accounts for 2/3 of the difference in growth rates between Indiana and other states – how can you oppose it?**

If you look closely at state-by-state job growth, it's clear that RTW does not explain the variation. For instance, using the Chamber's own data, from 1977-2008 the non-RTW states of Colorado, Washington, New Mexico, New Hampshire, Alaska, California, Delaware, Vermont and Oregon each did better than a majority of RTW states. U.S. Bureau of Economic Analysis (BEA) data itself is a breakout by region -- high growth was concentrated in 1977-2008 in the Southeast, Southwest and West. All kinds of factors influenced these state's growth, including the price of real estate, low inheritance tax rates, the spread of air conditioning, the booming price of oil, etc. When you compare states that are roughly in the same part of the country, you find that Indiana in 1977-2008 actually grew significantly faster than Iowa, the one RTW state in the upper Midwest. (42.8% vs. 34.4%)