

NEED TO KNOW

August 2011
No. 0001

Published by:

AMERICANS FOR PROSPERITY
FOUNDATION

RIGHT TO WORK

What are “Right-to-Work” Laws? In the early years of the National Labor Relations Act, unions had the legal power to require union membership as a condition of employment at any unionized workplace (a “closed shop”). In short, any employee that did not wish to be a part of the union or pay union dues was denied employment. If an existing employee was kicked out of the workplace’s union for any reason, the employer was required by law to fire that employee. This was a powerful tool that unions used to (artificially) swell their ranks: even if they objected, workers had no other choice but to pay dues and maintain good standing with the union if they wanted to keep their jobs.

This changed with the Taft-Hartley Act in 1947. Section 14(b) gave states the authority to pass laws protecting workers from compulsory unionism. A “right-to-work” law doesn’t ban unions or take away workers’ right to organize; it merely says that no labor organization can force workers to join or pay membership dues. That choice is left up to the worker, free from coercion.

Since then, twenty-two states and the territory of Guam have adopted right-to-work protections in their state legislatures, including AFPF states like Arizona, Texas, and North Carolina. Most are in the South and the West.¹

What’s at Stake? Why are They Important? Two words: job creation. One only needs to compare private sector employment figures for the 22 right-to-work states against the 28 forced unionism states over the last decade, from 2000 to 2010. Right-to-work states survived two recessions and actually created a net 125,000 jobs by the end of a tumultuous decade (a 0.3 percent increase). Forced unionism states didn’t fare as well, losing nearly 4 million jobs over that time (a 5.5 percent decline).²

The bottom line is that, on balance, employers can no longer create sustainable private sector jobs in states where workers are forced by law to join and financially support unions. The restrictive and inefficient contract rules won by labor groups with over-inflated powers

Quick Facts

A right-to-work law doesn’t ban unions or take away a worker’s right to organize; it merely says that no labor organization can force workers to join or pay membership dues.

Twenty-two of the nation’s fifty states have adopted right-to-work laws. Most are in the South and the West.

Right-to-work states have created jobs at a substantially faster pace than forced unionism states over the past decade.

Notable & Quotable

“To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors is sinful and tyrannical”

--Thomas Jefferson

“I want to urge devotion to the fundamentals of human liberty, the principles of voluntarism. No lasting gain has ever come from compulsion. If we seek to force, we but tear apart that which, united, is invincible.”

-- Samuel Gompers, father of the modern labor movement and founder of American Federation of Labor, which later became the AFL-CIO

If employees have the right to join a union, then they should also have the right to refrain from joining a union. As a simple matter of personal freedom, forced unionism fails to pass the test.

are simply bad for a company's growth prospects. As the recent dispute between Boeing and the NLRB has highlighted, our nation's job creators are looking to build new plants or expand their operations in states with workforces that are more competitive and open to innovation.

Seeing their neighboring states prospering, many forced unionism states across the country have moved to adopt right-to-work laws. Lawmakers in nearly 20 states introduced right-to-work legislation in recent months, including AFPP states Hawaii, Maryland, Maine, Michigan, Missouri, Montana, New Jersey, and Pennsylvania.³ While many of the bills never gained traction, New Hampshire's came very close to becoming law. Conservatives passed the measure through the State House and Senate, but it was vetoed by Governor John Lynch.⁴ Conservatives in the state have vowed to consider an override of the governor's veto when the legislature reconvenes in the fall.

Conclusion. If employees have the right to join a union, then they should also have the right to refrain from joining a union. Even if an employee is merely forced to pay membership dues (rather than into membership outright) these same union dues are frequently used to support political causes which the employee may not support. As a simple matter of personal freedom, therefore, forced unionism fails to pass the test.

Further Reading and Research

- *The National Labor Relations Act of 1935*, available at http://www.law.cornell.edu/uscode/29/usc_sup_01_29_10_7_20_II.html.
- George C. Leef, *Free Choice for Workers: A History of the Right to Work Movement* (2010).
- Hans A. von Spakovsky and James Sherk, *National Labor Relations Board Overreach Against Boeing Imperils Jobs and Investment*, Heritage Foundation Legal Memorandum No. 66 (May 11, 2011), available at http://thf_media.s3.amazonaws.com/2011/pdf/lm66.pdf.
- National Right to Work Legal Foundation, available at <http://www.nrtw.org/>.

Endnotes:

1. For a complete listing of right-to-work states and an up-to-date map, see National Right to Work Legal Foundation, *Right to Work States* (online at <http://www.nrtw.org/rtps.htm>) (accessed August 15, 2011).
2. Bureau of Labor Statistics, *State and Metro Area Employment, Hours, & Earnings* (instrument: Total annual private employment, 2000-2010, by state) (online at <http://www.bls.gov/sae/>) (accessed August 2, 2011)
3. National Conference of State Legislatures, *Collective Bargaining and Labor Union Legislation Database* (instrument: All States, Right-to-Work/Membership) (online at <http://www.ncsl.org/?tabid=22275>) (accessed August 2, 2011).
4. Tom Fahey, *Delay for Right-to-Work Vote?*, New Hampshire Union Leader (May 24, 2011) (online at <http://www.unionleader.com/article/20110524/NEWS06/705259979>).

Americans for Prosperity Foundation's "Need to Know" informational series explores current events and recent scholarship on public policy issues from a free-market economics perspective. A full list of "Need to Know" briefings is available at www.AmericansForProsperityFoundation.com/NeedToKnow.