

## What “Right to Work” Would Mean for Michigan

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There is an effort afoot to make Michigan a “right to work” state. Unfortunately, most citizens are unaware of what “right to work” means or the implications if such a law is passed. Our purpose here is to explain the law, map the arguments for and against, and describe potential effects for Michigan should such a proposal become law.

To begin, the term “right to work” (hereafter RTW) is a misnomer. RTW has nothing to do with the right of a person to seek and accept gainful employment. Rather, RTW laws prohibit a labor union and employer from negotiating union security clauses. What are union security clauses? Union security clauses are contract provisions that regulate the collection of union dues. In non-RTW states, such as Michigan, the parties are free to negotiate a range of union security options. Unions typically prefer “union shop” terms that require every person benefiting from union representation to pay union dues. In RTW states, the parties are barred from negotiating union security clauses, making the default the “open shop,” where the payment of dues is optional for workers represented by the union. Between these two policy poles are arrangements that require represented persons to pay a proportion of full dues, and even to allow objectors to unionization to contribute dues to charity. Such arrangements are, however, also proscribed under the RTW proposal before Michigan.

Labor unions are nearly universal in their opposition to RTW laws, and their argument is straightforward: each person that benefits directly from union representation should pay their fair share of the cost of that representation. In the very least, represented persons should pay a dues amount to cover the expense of negotiating and administering the labor agreement (what are referred to as collective bargaining activities). For unions, this is just since, by law, they are required to represent all persons within a bargaining unit. It is critical to appreciate that although unions have some input into the composition of the bargaining unit, they cannot exclude persons that simply do not want unionization. It is the National Labor Relations Board, or similar agency at the state level, that holds final judgment over bargaining unit membership. Determination is based on “community of interest” criteria (e.g. similar skills, proximity, and so forth). Any job meeting those criteria is included, regardless of how a particular individual holding a job feels about unionization. Then, if a majority of workers in the bargaining unit elect to unionize, union leaders must represent all unit members fairly and without prejudice.

Supporters of RTW laws advance two major arguments. First is that RTW laws make a state more attractive to investment, and that passage of RTW law will lead to job growth. While such statements may sound attractive to a state that is facing economic hardship, the evidence here is in dispute. Like Michigan, nearly every state in the union has lost manufacturing jobs over the last six to eight years, but it is unclear whether the rates of job loss are related to RTW laws. Our economic problems in Michigan are due

primarily to the woes in the auto industry, which RTW would not fix. When making location decisions businesses rate factors such as the quality of the regional workforce, the regulatory environment, and tax incentives before ever considering RTW laws.

The second and main argument for RTW is rooted in libertarian ideology: individuals should not be required to financially support any collective, unions in this case, against their will. This “free association” position focuses on the inherently coercive practice of demanding a sacrifice from all that benefit from a collective endeavor. Coercion exists when an individual objects to the purpose or activities of the collective, yet is unable to withhold their support. In the U.S., a workplace becomes unionized when a majority of the employees in a bargaining unit petition for union representation. This “50 percent plus 1” method of determination almost guarantees the presence of a minority group that did not want a union. Further, in many instances a person gains union coverage by accepting employment at a worksite that is already unionized, without ever having the opportunity to vote for or against unionization. In a non-RTW state, a labor union and employer can agree to a union security clause that requires all covered persons to pay dues to finance collective bargaining activities. In such situations, someone seeking to avoid paying dues to the union has three options: exit their job, convince union leadership to negotiate an open shop, or persuade fellow workers to decertify the union. Given that the last two outcomes are hard to achieve, the most viable option for dissenters is to work elsewhere. Thus, the term “right to work” means, in its elongated form, the right to work in a unionized setting, and reap the benefits of collective representation, without having to contribute toward the cost of obtaining those benefits.

And the benefits are indisputable. Depending on the occupation, unionized workers earn wages that are ten to forty percent higher than their nonunion counterparts. The positive differential for other forms of compensation, such as health care insurance and pensions, is even greater. Perhaps more important than economics, however, are matters involving justice. Nearly all union contracts feature an informal form of due process: a grievance procedure that ends in final and binding arbitration through which unions resolve disputes over the contract and employer discipline. As such, in most union settings an employer must show proof that a worker committed a wrongdoing in order to discharge them. By contrast, in a non-union setting workers are “at will” and can be discharged for any reason (or none at all) that is not proscribed by federal law.

It is important to note these benefits, because while promoting free association and individual liberty sound noble, the use of such concepts to advance RTW legislation belie a less lofty motive: to undermine the economic and political power of wage-earners. As the financiers of the RTW program are well-aware, when workers act collectively they gain power at work and in society. In states that have passed RTW legislation, the wages and benefits of all workers, union and non-union, are lower than national averages. One reason is that the gains by unionized workers spill into the non-union sectors through the so-called “threat effect”: in the presence of a strong regional union movement, employers with a non-union workforce will raise wages and benefits to discourage employees from unionizing. Remove the threat and non-union employers have greater

latitude to lower compensation, to require workers to perform dangerous tasks or work in unhealthy environs, or to treat workers without dignity. This is the hidden agenda behind the RTW effort: strengthen the hand of employers by passing a law that weakens the vanguard institutions promoting economic and social equity for wage-earners. In this sense, RTW is both a bald attack on organized labor as well as a veiled assault on wage-earners.

To understand how RTW laws weaken organized labor it useful to couch this discussion in theory. Social scientists that study collective behavior often refer to the “collective action problem” for movement development. It begins with the premise that any collective endeavor needs resources such as volunteer effort, money, or other assets to succeed. Unfortunately, individuals that stand to enjoy the fruits of the collective also have an incentive to avoid making any contribution, especially if they believe the collective will succeed without their support. With too many “free riders,” of course, the collective becomes resource-starved, causing it to under-perform or fail. To minimize this problem, rules are necessary that limit the ability of an individual to shirk their obligation to the collective. There are many examples of this phenomenon in society, but the most obvious is taxation for funding public services. Politicians may debate the level of tax, how taxes are collected, or how taxes are spent, but there is no question that it would be a disaster to allow the payment of taxes to be optional. Compulsory taxation is necessary to ensure the adequate financing of public services.

Similarly, for organized labor, union security provisions are the rules that resolve the collective action problem. A union shop simply mandates that everyone pays their fair share. Open shop arrangements, on the other hand, are problematic because they present incentives for employees to refrain from contributing to the union, and “free ride” on the sacrifices of dues-paying members. Ultimately the financial support necessary to operate a union is undermined.

So what are the predictable consequences if Michigan becomes a RTW state? To answer that question, we need to first map how unions affect our society. The most mentioned role that unions play is in the economic system, as a bargaining agent for workers. As described above, unions use their collective power to gain a more equitable share from production, and also to negotiate rules that improve the level of justice at work. Under RTW laws, existing unions would direct resources toward internal member mobilizing in an effort to retain this role. This redirection of resources, however, would mean fewer funds for new member organizing, and Michigan would likely experience a diminished threat effect. A second recognized role for labor is in the political system. Labor unions have a long history of pursuing legislation that benefits all wage-earners: higher minimum wage laws, universal health care, health and safety protections, to name a few. Union’s leverage to achieve gains in these areas is directly related to their ability to mobilize support during the political cycle. As such, unions operate telephone banks, engage in member education, and canvass communities to inform their members and the public to get out the vote. Under RTW laws we can expect resources for these activities to diminish, resulting in lower voter turnout among the working class and a political system that is less responsive to Michigan’s non-rich. Finally, labor unions are active in

civic affairs. As human institutions embedded in our communities, unions frequently organize collections on behalf of the less fortunate, they are among the largest givers to charitable organizations, such as the United Way, and they even occasionally fund popular community activities, such as little league teams. Under RTW, we should expect this role to decline.

Unions are certainly not flawless. They are organizations that breathe a measure of democratic life into an otherwise autocratic corporate culture. And as democracies, unions can embrace the best and the worst of human intentions. On balance though, labor unions have an admirable history. In every capitalist economy, the standards for economic, political and social equity are owed in part to a vibrant, independent union movement. Consider this final thought, fellow citizens, as you contemplate whether Michigan is to become a RTW state.